BEFORE THE ENVIRONMENTAL PROTECTION AGENCY

IN RE: WYOMING REGIONAL HAZE PUBLIC HEARING

TRANSCRIPT OF PUBLIC HEARING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for public hearing on the 26th day of July, 2013, at the hour of 1:00 p.m., at the Wyoming Oil and Gas Conservation Commission Hearing Room, 2211 King Boulevard, Casper, Wyoming before Ms. Gail Fallon, Hearing Officer, and Ms. Monica Morales also in attendance.

I N D E X

P R O C E E D I N G S

(Hearing proceedings commenced 1:00 p.m., July 26, 2013.)

MS. FALLON: We're going to go ahead and get started, if you want to take your seats. Good afternoon. My name is Gale Fallon. I'm from EPA in Denver, Colorado. Thank you all for coming this afternoon. I will be presiding over this hearing today. This hearing is now officially in session.

The subject of today's hearing is the Environmental Protection Agency's reproposal to approve a portion of Wyoming's regional haze state implementation plan, or SIP. EPA also proposes to disapprove a portion of the SIP and propose a federal implementation plan, or FIP, for that portion of the SIP.

EPA initially proposed its decision in the Federal Register on June 4th, 2012. During the public comment period ending August 3rd, 2012, EPA received comments that caused EPA to go back and reevaluate its proposal. In response to these comments, EPA conducted its own cost analysis for the BART and reasonable progress electric generating units, or EGUs, and EPA also revised its modeling of the visibility improvement for these sources. You will hear more detail regarding the proposal from Monica Morales momentarily.

The fact sheet on the table in the back of the room explains how you may submit written comments on EPA's proposal and also gives the Federal Register's citation for the proposal. This hearing is a means for EPA to listen to your comments on the proposed Federal Register notice. But before I turn it over to Monica, let me explain a bit about the process and a few ground rules for the hearing.

When EPA takes action on a state implementation plan or federal implementation plan, it is required to do so through rule-making. This rule-making is governed by laws passed by Congress; through SIPs, the Administrative Procedures Act; for FIPs, the Clean Air Act. In either case, EPA must publish a proposed rule in the Federal Register, take public comment on the proposed rule and publish a final rule in the Federal Register after considering the comments.

In the case of FIPs, EPA's also required to conduct a hearing, which is what we're doing here today. After considering all the comments, EPA may decide to make changes to the proposal, or it may decide to finalize the rule as proposed.

We are here today to listen to your comments. We will attempt to answer any clarifying questions about the process or what's contained in the proposal, but we

are not here to explain the basis for the proposal. The Federal Register notice does that. We cannot engage in a back-and-forth discussion of the proposal or respond to your comments during this hearing. The purpose of the hearing is to receive your input. We will consider and respond to all comments received during this hearing, as well as all written comments, in a final Federal Register notice. If you've already made comments, there's no need to repeat them today.

We're recording our proceedings here today, so be assured that your comments will be considered. The court reporter sitting to my left will be preparing a transcript of today's proceeding that will be available for anyone who wants to see it. The transcript is part of the record and will be included in the rule-making docket. The rule-making docket is where EPA collects materials it has considered in its rule-making action, including public comments. The docket is available on the internet for review at regulations.gov, or you can view a hard copy in EPA's Denver office. Specific instructions for accessing the docket are described in the Federal Register notice for the proposed rule-making and on the fact sheet that we've made available. The transcript of this hearing will also be available in the rule-making docket.

Before we begin taking your comments, first allow me to take a moment to set the stage, that is, to explain how the hearing will be run. After I speak, Monica Morales, who is sitting here at the table with me will explain the details of the proposed action. She will explain what the State is proposing in its SIP, as well as what EPA is proposing in its FIP, based on the Federal Clean Air Act requirements for regional haze.

I will then call people to speak based on the card or the sheet that was filled out when you arrived. I would like to stress that we have quite a few people here today, and we don't know that everybody wants to speak, but we want to ensure that everyone has the opportunity to speak about the proposed action. So, in order to do that, we need to keep people's comments brief, five minutes or less, at least in the beginning. Please try to be succinct and on point as you can. If I find that we are straying from the topic at hand, I will interrupt and ask that you please return to the issue before us. If we have time at the end and everyone has had the chance to speak and you have more to say than the five minutes you were given, then I'll allow people to get back up and finish their comments.

So that's how we'll proceed. Next to speak is Monica Morales, and she'll explain the proposed action.

MS. MORALES: So, good afternoon. My name is Monica Morales. I'm acting director for the State Partnerships and Sustainable Practices Program in EPA's Region 8 office in Denver. As you heard from Ms. Fallon, this hearing concerns EPA's proposed action on a portion of Wyoming's regional haze state implementation plan that addresses requirements pertaining to particulate matter and nitrogen oxides and visibility impacts those pollutants have at wilderness areas and national parks, a/k/a under the regional haze rules Class 1 areas.

Our proposed action was published in the Federal Register on June 10th, 2013. We are required by consent decree to finalize a proposed action on Wyoming's regional haze plan for nitrogen oxides and particulate matter by November 21st, 2013.

So, when you signed in, there was a regional haze fact sheet. If any of you are interested, if you didn't get that, feel free to take one. This fact sheet provides a general background of EPA's regional haze rule and explains some of the terms and acronyms that will be discussed during the hearing. I encourage those of you who are not familiar with the regional haze rule to take a look at the fact sheet. We have also posted the fact sheet on EPA's Region 8 website.

In response to a June 13th request from the

Wyoming governor, the EPA is holding today's public hearings in addition to the hearings held on June 24th of this year and July 17th. The EPA is also extending the comment period to August 26th, 2013. The Federal Register notice announcing the additional hearings and the new closing date for the comment period was published on July 8th.

In our June 10, 2013 actions, we are proposing to approve the majority of Wyoming's regional haze SIP for the particulate matter nitrogen oxides. Specifically, we are proposing approval of the State's best available retrofit technology, a/k/a BART, determinations for nitrogen oxides for four electrical generating units, or EGUs, at PacifiCorp's Jim Bridger plant, one electrical generating unit at PacifiCorp's Naughton plant and four units at two trona plants.

We are proposing to approve the State's particulate matter determinations under BART for all of the units in Wyoming that are subject to BART requirements. We are also proposing to approve the State's regional progress determinations for nitrogen oxides and particulate matter for the oil and gas sources and for one cement plant.

We are proposing to disapprove and put in place a federal plan for the best available retrofit technology

determinations and the emission limits associated with those determinations for NOx at eight electrical generating units. And those facilities would be PacifiCorp's Dave Johnston Units 3 and 4, Naughton Units 1 and 2 and Wyodak Unit 1 and Basin Electric's Laramie River Units 1, 2 and 3. For these PacifiCorp and Basin Electric units, we disagree with the State's conclusion that low NOx burners and over-fired air combustion controls represent BART for NOx.

We are instead proposing the use of selective noncatalytic reduction, or SNCR, controls for two of these units, those being PacifiCorp's Dave Johnston Unit 4 and PacifiCorp's Wyodak Unit 1. We are proposing the use of selective catalytic reduction, or SCR, controls for PacifiCorp's Dave Johnston Unit 3, PacifiCorp's Naughton Units 1 and 2 and Basin Electric Laramie River Units 1, 2 and 3.

SNCR and SCR are more efficient controls that cost more than low NOx burners for removal of nitrogen oxides from stack gases prior to release into the atmosphere. EPA is specifically seeking comment on an alternative proposal related to the Jim Bridger plant and the timing for installation of the NOx emission controls for that facility.

As part of the public comment process and

explaining in detail throughout our notice, EPA is specifically requesting that interested parties provide any additional information that EPA may not be aware of regarding our proposed BART determinations, including control technology determinations and the timing of compliance, both for the proposed state and federal plans.

EPA will consider all public comments and information received, including additional options for control technologies and timing before issuing a final action. As detailed in our notice, supplemental information we receive may lead us to adopt a final state plan or a final federal plan that reflect a different level of BART control or may impact other proposed regulatory provisions which are different from our proposed notice.

In addition, we are proposing to disapprove and have a federal plan for the reasonable progress determinations. Those are different from best available retrofit technology options. For those facilities, we are proposing limits for nitrogen oxides for two electrical generating units. These units, again, are not subject to the BART requirements. These units are Units 1 and 2 of PacifiCorp's Dave Johnston plant.

Again, we disagree with the State's

determination in this case that it is not reasonable to impose additional NOx controls on these two units at this time to achieve reasonable progress. We are proposing the use of low NOx burners for these two units instead.

As it has done with other states, EPA has worked and will continue to work with Wyoming Department of Environmental Quality and the affected facilities on this important issue. We are accepting written comments. Written comments must be received by EPA on or before August 26th, 2013. As I noted earlier, this is an extension from the August 9th date that is referenced in our June 10th proposal.

We encourage your comments, and we will consider all comments in finalizing our action on the State's regional haze and visibility plans and in our federal plan.

Thank you, and thank you for attending today. I'll now turn it back over to Ms. Fallon to go ahead and start comment.

MS. FALLON: As you present testimony, please come to the table next to the court reporter and spell your name. Make sure we have it in the record correctly. And if you have written testimony that you'd like to hand, you can give that to me as you come up or leave, your choice.

So our first commenter is Wally Johnson.

MR. JOHNSON: I'm Wally Johnson. I'm chairman of the Sweetwater Board of County Commissioners. W-A-L-L-Y J-O-H-N-S-O-N.

Sweetwater County recommends that the EPA approve the Wyoming DEQ state implementation plan for regional haze rules. This plan is based on coordination with local industries, sound science and compliance with the Air Quality Act's haze rules deadline of the year 2064. This plan includes a balanced program that effectively reduces emissions within a reasonable time frame and ensures reliable, affordable energy.

If the federal implementation plan for regional haze rules is adopted instead of the State's plan, it would establish a timeline for compliance with haze rules that is unreasonable and cost prohibitive. The federal implementation plan will require additional expense, emission control technology for emission control technology, which will cost the Jim Bridger Power Plant and other Wyoming power generation facilities millions of dollars to install.

Additional expense will drive up the cost of electricity, which will be passed on to the ratepayers and will result in limiting economic development and creation of jobs across the state. Wyoming parks and

wilderness areas are important local, state and national recreation assets. Through clean air regulations, it is important to provide sufficient protection to ensure the views of the Grand Tetons and the sink areas of the Wind River Mountains are preserved, but there has to be reasonableness and balance considered in these regulations.

Since the home of these national treasures is Wyoming, these reasonable and balanced haze and air quality standards are best determined and implemented by the State of Wyoming. This is consistent with the responsibility Congress gave the states, not the EPA, to determine what emission reductions are required to make reasonable progress to achieve reasonable visibility improvements.

When determining the responsibility for regional haze, Sweetwater County strongly believes that the DEQ and EPA need to investigate the contribution to Wyoming's haze problem by sources located outside of the United States, especially from countries like China that do not appreciate the necessity for strong environmental regulations. If we do not consider the effects of air pollution contributing to our nation's and our state's air quality issues, we open the door for unfair competition that allows industries to locate abroad to

avoid the cost of environmental regulation and the cost of maintaining a healthy environment for all.

Sweetwater County is not implying we reduce our environmental regulations to the same level as China, but we are saying that the DEQ and EPA must clearly understand the sources of our local, state and national air quality issues and assign the responsibility and the cost for haze and air pollution to the appropriate parties. To assign the entire cost of Wyoming's haze and air pollution to Wyoming industries without considering the effects of offshore sources is unfair to our industries, and it would cause unnecessary impacts to the economy of Wyoming and the United States.

Sweetwater County and Wyoming are blessed with an abundance of energy resources, including coal, oil and gas, uranium, wind and water. And with these resources, Sweetwater County recognizes that the County and the State can play a significant role in a balanced national energy policy based on reasonable and affordable regulations. If the air quality rules and regulations governing the national energy policy are not reasonable and affordable, the national energy policy balance will be lost, creating a policy that favors one energy source over another.

Sweetwater County foresees the EPA's

unreasonable and unaffordable haze rules as having the potential to shift the national energy policy balance in favor of gas, rather than coal. This shift may force utilities to convert their power plants from coal to natural gas, when that -- when that may not be in the best interest of this country. Some may believe that coal-to-gas conversion is beneficial and the resulting incremental improvement in air quality will outweigh any potential employment or revenue losses that may result from corresponding declines in the coal industry.

For Sweetwater County, coal production means high-paying jobs and a high quality of life for many residents of the county and the state. Coal mining contributes approximately 600 direct mining jobs to Sweetwater County and approximately 7,000 jobs to the state of Wyoming. To lose any of these jobs in favor of a small incremental improvement in air quality is unacceptable to Sweetwater County.

If I could digress for a moment why I feel strongly about this, I was selected to tour the Soviet Union coal mining industry shortly before the Soviet empire collapsed. We toured the coal mining industry in Russia, the Ukraine and in Siberia. We were in an area in Siberia called Novokuznetsk, highly industrialized area, and the air quality was horrible. You could

hardly -- I've never seen anything like it before or since.

I was talking to a Soviet engineer, and I mentioned this to him. His answer is something that we got to keep in our own minds as to what he said to me. He said it's very difficult to worry about the air you breathe when your stomach is empty. There has to be balance between what we're doing. We need pristine air, yes, but we also need to have something in our bellies.

In conclusion, Sweetwater County would like to thank the EPA for the opportunity to comment on how the regional haze rules should be enforced in Wyoming. In consideration of the hard work and coordination that Wyoming industries and the DEQ have put into developing a state implementation plan and consideration of the fact that Wyoming knows what is best for Wyoming, Sweetwater County strongly recommends that the EPA approve and accept Wyoming DEQ's state implementation plan for compliance with the regional haze rules.

I would be happy to answer any questions you may have. Thanks very much.

MS. FALLON: Thank you, Mr. Johnson.

Next we have Gary Negich.

MR. NEGICH: Good afternoon. My name is Gary Negich, G-A-R-Y N-E-G-I-C-H. I am the president of

First Interstate Bank in Laramie, Wyoming. I'm also the past co-chair of the Wyoming Business Council with Governor Mead and two-time president of our local economic development corporation in Laramie.

First Interstate Bank supports hundreds of large and small business owners and thousands of individual customers who will be adversely impacted by the EPA's recent reproposed action. While I readily admit that I'm a banker and businessman, not a scientist, environmentalist or a policy maker, I fully understand what builds and sustains economic development, not only in Wyoming, but also in communities across America, and that's safe, reliable and reasonably priced electricity.

Therefore, I've taken the opportunity to educate myself and my business colleagues on the EPA's reproposed federal implementation plan for regional haze. What I have learned is that if the EPA proposal goes forward, it will definitely require more extensive and significantly more expensive emission controls than were ever envisioned in the State of Wyoming's own regional haze state implementation plan, and more importantly, that these additional emission controls, while ultimately costing businesses and households hundreds of millions of dollars, will have little, if any, effect on visibility improvements.

The original regional haze concept was a long-term program designed to gradually achieve natural air quality visibility conditions in specific national park and wilderness areas by 2064 and not a program that was ever proposed or intended to be fully implemented in five to eight years. It is difficult, if not impossible, to even comprehend how something of this magnitude, even if it could achieve the goals as outlined, could ever be implemented in this short time frame without completely destroying what economies rely upon, and that's large amounts of reasonably priced electricity.

It is my understanding that in the past eight years, our coal-fired plants in Wyoming have installed over one billion dollars in additional air quality controls and that, according to EPA standards, Wyoming has better visibility than virtually any other state in the country.

Therefore, it seems unreasonable, illogical and, frankly, irrational that the EPA would demand Wyoming businesses and homeowners foot the bill for another one billion dollars in emission controls that has little probability of improving the quality of lives or the livelihoods of our citizens and, in fact, has a great potential to harm our people and our state.

There are six coal-fired generation plants in

Wyoming, and as a businessman, I can well appreciate the conversations that are occurring inside that industry today. When the cost of operations become too high and capital investments fail to achieve appropriate returns, businesses close their doors.

In this case, we're talking about potential early shutdown of coal-fired electricity generation in Wyoming. And interestingly enough, even shutting down all six plants would still not achieve the ultimate goal of the regional haze program. Therefore, it is beyond reason as to why the EPA seeks to place such a burden on the economies that fund its very existence and especially the burden of a proposal that has no real or even rational prospect of achieving EPA's own goals of reducing regional haze.

I urge the EPA to strive -- I heard my colleague say balance in your decision-making. Is it worth disrupting families, losing jobs and destroying economies to see an extra mile? I urge the EPA to reconsider its position and allow the State of Wyoming to proceed with its own state implementation plan for regional haze.

Thank you very much.

MS. FALLON: Thank you, Mr. Negich.

Next, Micheal Dunn.

MR. DUNN: Good afternoon. My name is Micheal Dunn, M-I-C-H-E-A-L D-U-N-N. I'm president and chief executive officer of PacifiCorp Energy. This is the division of PacifiCorp that operates our electric generating facilities, including wind, hydroelectric, natural gas, geothermal and coal resources which supply electricity to more than 1.8 million residential and business customers in Wyoming and five other western states.

On June 10th, 2013, EPA published a reproposed federal implementation plan that was to have accounted for new information that EPA needed to consider. While there are several glaring deficiencies in the EPA's reproposal and underlying analysis of this purported new information, perhaps the most troubling and problematic is that EPA has only attempted to reconsider two of the five factors that must be evaluated in the regional haze BART analysis, the costs and modeled visibility impacts.

EPA's own guidelines underlying the BART analysis process do not support evaluating individual BART factors in a vacuum, and EPA's reproposal must consider all new information that is available for all five factors. EPA's attempt to only reevaluate two factors has resulted in a FIP proposal that is fatally flawed.

Today I will comment on the significant deficiencies associated with EPA's five-factor BART analysis. The five basic steps of a regional haze BART analysis include, number one, the cost of compliance, number two, the energy and non-air quality environmental impacts of compliance, number three, any existing pollution control technology in use at the source, number four, the remaining useful life of the source, and number five, the degree of visibility improvement which may reasonably be anticipated from the use of BART.

With respect to the first factor, which is the cost of compliance, I commented July 17th, 2013 on EPA's cost analysis and will not expand any further on that issue in today's comments.

With respect to the second of the five BART analysis factors, EPA's reproposal has failed to consider all of the energy impacts associated with its plan. There are at least three types of energy impacts that EPA must consider. These include the energy associated with operating the controls, the energy that must be provided when the unit is removed from service in order to install the controls, and most importantly to the state of Wyoming and its citizens, the energy that must be replaced when the emissions controls prescribed for a given unit are not economically justifiable and would

result in accelerated unit retirements and replacements to facilitate compliance.

The latter scenario is of particular concern because the EPA has now proposed SCR controls for PacifiCorp's Naughton Unit 1, Naughton Unit 2 and Dave Johnston Unit 3. Unlike the Wyoming SIP, the EPA's FIP requires uneconomic controls that would lead to early retirement of units. A thorough evaluation would also include an analysis of the impacts these retirements will have on local jobs, the economy and the community surrounding the affected facilities.

As to the third of the five BART factors, PacifiCorp has provided comments to the EPA regarding the control equipment that has already been installed and is operating on its units. However, EPA, in its reproposal, continues to ignore the controls that have been installed and fully implemented in accordance with the requirements of Wyoming's regional haze program.

In the analysis EPA provides with its reproposal, the EPA continues to use a 2001 through 2003 emissions baseline for each unit, stating that this is what its rules require. How can EPA ignore readily available information regarding the existing and operating emissions control equipment and come to the conclusion that using emissions data that is more than

ten years old is more important than meeting its obligation to consider the existing pollution control technology in use at the source?

New information that must be considered in EPA's reproposal includes taking into account both the control equipment currently installed and operating, as well as each unit's current emissions baseline.

Regarding the fourth of the five BART factors, PacifiCorp submitted its BART studies to Wyoming in 2007, and the State completed its BART analysis during 2008. At that time the remaining useful life of all PacifiCorp BART-eligible units was considered to be at least 20 years. Because of EPA's delays in dealing with the Wyoming SIP, this assumed a 20-year life span is no longer valid.

The Dave Johnston plant's current depreciable life ends in 2027, and the Naughton facility's depreciable life ends in 2029. From a permitting and construction perspective, the SCRs that EPA now requires at Dave Johnston Unit 3 and Naughton Units 1 and 2 could not be installed until shortly before the end of 2018. EPA must consider each facility's remaining useful life, which would be nine years and eleven years respectively for these plants. These shorter plant lives have a significant impact on the costs of compliance that EPA

has used to justify the installation of SCR, and EPA must analyze the proposed controls based upon this information.

Finally, as to the fifth BART analysis factor, EPA's reproposal must appropriately consider new information associated with visibility modeling. In comments provided in response to EPA's first proposal, PacifiCorp presented substantial information relevant to improved versions of the computer models used to predict visibility impacts, as well as information on the effects that the nitrogen oxides to nitrogen dioxide conversion rate and background ammonia concentrations have on the modeled visibility impacts. EPA's reproposal is not complete without taking into account this new information.

EPA's flawed actions underlying disapproval of a regional haze SIP are not limited to Wyoming. EPA has disapproved regional haze SIPs in Utah, Arizona, New Mexico, North Dakota and several other states. How is it that these states which have successfully implemented every other requirement of the Clean Air Act for many years are suddenly no longer capable of doing it, prompting EPA to propose federal implementation plans?

It is because EPA has methodically changed or selectively ignored the requirements from those which

were established in 40 CFR Part 51 and Appendix Y, which were published in 2005. The states' SIPs, written shortly after that period, were based on the rules and guidance provided at that time. Since then, however, EPA has arbitrarily and continually changed its interpretation of the regional haze regulations in order to achieve emission reductions and other objectives well beyond those allowed by the regional haze program.

Here are a few examples of how EPA's position has changed over the past few years with respect to the guidance given for determining NOx BART controls.

Appendix Y provides a presumptive BART NOx rate differentiated by boiler design and type of coal burned. EPA now requires post-combustion controls significantly more aggressive than the presumptive rates prescribed in Appendix Y.

Appendix Y makes distinctions for unit size, with more aggressive controls targeted at the largest units. In Wyoming, EPA now proposes to require SCR on units as small as 160 megawatts.

The preamble to the regional haze rules suggests that 75 percent of the electric generating units would have BART NOx controls cost between $100 and $1,000 per ton. EPA is now imposing costs, based on its own calculations, of $3,700 to $6,000 per ton on 100 percent

of PacifiCorp's Wyoming BART-eligible units.

SCR controls were only expected to be cost-effective controls for cyclone units with high NOx emission rates. EPA is now proposing post-combustion NOx controls on every BART-eligible unit in Wyoming, including the installation of eleven SCRs.

EPA must stop changing its interpretations of the regional haze rules and guidelines that were formalized in 2005 and move ahead with approving the Wyoming BART analysis and the regional haze SIP which complies with those rules and guidelines.

EPA's silence is deafening on its original expectation that BART-eligible units would have BART controls installed by the end of 2013. In contrast, the State of Wyoming has appropriately and effectively developed and implemented a regional haze program that has met the 2013 timeline. As a result, as of the end of 2012, PacifiCorp has fully implemented the State's regional haze program for its BART-eligible units, with the only exception being Naughton Unit 3, which has a deadline beyond 2012.

PacifiCorp is now moving ahead with installing controls associated with the State's long-term reduction strategy, as well, which includes the installation of SCR on the Jim Bridger units in Wyoming.

While you will hear others argue that PacifiCorp has done nothing to reduce emissions from its fleet of coal-fueled units, nothing could be further from the truth. Between 2005 and 2012, in Wyoming PacifiCorp has installed four new sulfur dioxide scrubbers and upgraded another five scrubbers to reduce sulfur dioxide emissions. All of PacifiCorp's Wyoming BART-eligible units have been retrofitted with low NOx burners to reduce nitrogen oxide emissions. And PacifiCorp has installed three baghouses and upgraded six electrostatic precipitators to reduce particulate emissions in Wyoming.

Over $900 million has been spent by PacifiCorp in Wyoming through year-end 2012 on these investments, and significant additional investments for selective catalytic reduction at Jim Bridger Units 3 and 4 have been recently approved by the Wyoming Public Service Commission for installation in 2015 and 2016 respectively.

The SIP submitted and implemented by Wyoming is appropriate and significant. The State has properly considered and applied the five factors of a BART analysis, and it has ensured that the timeline for implementing the program has been met. EPA has not acted in a timely fashion, and now that it proposes to take action, it offers a FIP that does not fully evaluate each

of the five factors required by a BART analysis.

How is it that the State and industry now find themselves in double jeopardy due to EPA's delays, reinterpretation of the rules and sue-and-settle tactics of EPA and environmental groups? EPA must recognize that the State's SIP is appropriate, approve it and allow the state industries and other interested parties to assess the visibility benefits realized to date and move ahead with the development of the next regional haze SIP, which must be submitted to EPA for their review and approval by 2018.

Thank you.

MS. FALLON: Next, Norine Kasperik.

MS. KASPERIK: Thank you for the opportunity to comment on EPA's June 10th, 2013 proposal to partially approve and partially reject Wyoming's state implementation plan for regional haze. My name is Norine Kasperik, N-O-R-I-N-E K-A-S-P-E-R-I-K. I am a Wyoming state representative from Gillette, Wyoming, which is in the heart of the Powder River Coal Basin. I serve as a member and vice chair of the Wyoming House Minerals, Business and Economic Development Committee, and I'm a member of the Wyoming Legislature's Select Committee on Federal Natural Resource Management.

The constituents that I represent depend on the

minerals we produce in Powder River Basin. This is especially true for the coal we mine. My constituents and I understand the blessings of having an abundant source of low-sulfur and low-ash subbituminous coal in Wyoming that provides reliable and affordable electrical generations to millions of families in our state and country. I am also very proud that Wyoming's mining industry places safety and environmental protection as its highest priority.

I'm very concerned about the direction the EPA is taking with this proposal that ignores Wyoming's authority in creating and implementing Wyoming's regional haze plan. The EPA's proposal to upgrade specific existing power plants with selective catalytic reduction technology will lead to capital costs in the billions of dollars and millions of dollars in annual expenses. It will increase the cost of electricity, which will hinder business expansion, and most importantly, will impact the most vulnerable people in our society who may need to decide between paying the electric bill and putting food on the table.

The EPA has a long history of partnering with Wyoming's Department of Environmental Quality and has supported Wyoming's primacy over air quality. Our Wyoming Department of Environmental Quality has expertise

and local knowledge, and they have developed a state implementation plan that more than meets and fulfills the requirements of a federal regional haze rule.

Since 1970, air quality criteria pollutants in Wyoming have decreased by 63 percent, even though electrical generation from coal-fired plants has increased by 180 percent. Our state plan is working and at a fraction of the cost of the EPA proposal. The EPA proposal will negatively impact Wyoming without a perceptible improvement in visibility across our national parks and wilderness areas.

In closing, I urge the EPA to reconsider its decision to replace Wyoming's plan with a federal plan. Some would say the EPA plan is a backdoor attack on coal that is part of a larger political agenda to drive up the cost of using coal as a source of electrical generation. What I see is an EPA proposal that is an affront to a state that prides itself in its responsibility and obligation to maintain Wyoming's remarkable vistas and clear blue skies not only in our state, but in our country's federal parks.

Again, I implore the EPA to resist continuing this unacceptable and costly response that will not improve Wyoming's final outcome related to regional haze.

Thank you.

MS. FALLON: Thank you, Ms. Kasperik.

Next, Pete Obermueller.

MR. OBERMUELLER: Good afternoon. My name is Pete Obermueller, P-E-T-E, O-B, as in boy, E-R-M-U-E-L-L-E-R. I'm the legislative director for United States Representative Cynthia Lummis. Cynthia Lummis is the at-large representative for all Wyoming. I'm also the executive director of the Congressional Western Caucus, a coalition of 42 members of Congress dedicated to the advancement of western and rural issues. The Western Caucus is co-chaired by Representative Lummis and Representative Steve Pearce of New Mexico. I'm here today testifying on behalf of Representative Lummis, the Congressional Western Caucus, United States Senator Michael Enzi and United States Senator John Barrasso, who chairs the Senate Western Caucus.

Today's hearing is focussed entirely on the EPA's proposed rule to partially but substantially disapprove of Wyoming's state implementation plan for regional haze. For reasons I will cover shortly, Representative Lummis and Senators Enzi and Barrasso have grave concerns with the EPA's plan, its effect on Wyoming's citizens and the assumptions made by the EPA regarding its authority to set aside the State of Wyoming's work.

It's important to mention that members of the Congressional Western Caucus are also concerned about the EPA's actions on regional haze because many have experienced similar federal overreach in their states. My comments today are tailored toward the EPA's overreach in Wyoming. But these concerns are not unique to Wyoming. They can be equally applied across the West.

Representative Lummis agrees with and would like to associate herself with many of the comments already offered today and last week by Governor Mead, county commissioners and the Department of Environmental Quality. As has been mentioned numerous times, the EPA's proposal is both costly and unnecessary.

At a time when the nation is engaged in a meaningful debate about the burdens of our tax code, citizens in Wyoming and the West can ill afford a new energy tax imposed not by Congress, but by the EPA.

As has been mentioned, the EPA's proposed plan on regional haze will impose additional costs on Wyoming's utilities to the tune of $1.2 billion, costs that will be passed on to ratepayers in Wyoming and elsewhere. The EPA's regional haze proposal is nothing short of a regressive energy tax that will be felt most dearly by our friends and neighbors in Wyoming and across the West who can least afford it.

It is not the upper-income individuals that will suffer. It is the middle and lower-income brackets that will watch a greater share of their month-to-month income siphoned off toward paying higher electricity bills, all in the name of a regulation that will do little, maybe nothing, to improve visibility as compared to the plan the State has proposed.

The experts at Wyoming's Department of Environmental Quality are more qualified to cover the technical details regarding the State's implementation plan and how it is not only sufficient, but superior to the federal plan in every way. The men and women of Wyoming DEQ have spent countless hours developing a plan that is right for Wyoming, right for our parks and wilderness areas, right for Wyoming's hard-working families and complies with the Clean Air Act.

Rather than focus on the technical details, I will focus my attention on an area where I do have some expertise, the legislative and legal history of the Clean Air Act. It is my belief and the belief of Representative Lummis that the EPA is operating outside the bounds of its legislative authority in rejecting any part of Wyoming's state implementation plan. We also believe that it is inappropriate for the EPA to insist about certain modeling techniques and cost of compliance

data when the EPA is relying on outdated and imperfect data itself.

The Clean Air Act is as clear as the Wyoming skies on the requirements of the State. Under the CAA, both the federal government and the states have responsibilities for maintaining and improving air quality. The federal government has the authority to set specific emissions targets, but the states have the authority to develop and impose their own regulatory structure to meet those. As long as the State meets its specific criteria, which Wyoming can and will show that it has done, the EPA did not -- that the EPA does not share the State's opinion regarding the best course of action is immaterial.

This reading of the Clean Air Act is not mine alone or that of Representative Lummis. It is the opinion of the Congress that passed the regional haze program in 1977. Committee and floor debate in Congress at the time makes clear that Congress fully intended for the states to possess a high degree of primacy in regional haze decisions.

The primary sponsor of the Clean Air Act and 1977 amendments in the Senate was the late Senator Edmund Muskie, a democrat from Maine. In his opening address to the Senate on the Conference Report to the 1977

amendments, Senator Muskie said, quote, under this legislation, the administrator of the Environmental Protection Agency will be more reliant on local and state capabilities to create the institutional and infrastructural changes necessary to achieve clean air. And perhaps this is as it should be. We have learned that there is little political support for inartfully conceived national measures. We have learned that where change can be made, it must be made with the full understanding and support of the people who are affected by that change, unquote.

While the courts in some instances may not give adequate weight to the intent of Congress in drafting legislation, let me assure you that Congress's intent in passing the nation's law is something that Congress itself takes very seriously.

Some courts have honored Congressional intent and upheld the CAA as cooperative statute. In Appalachia Power Company versus the EPA, the courts determined that the Clean Air Act includes a cooperative standard they call a federalism bar. In Train versus NRDC and Luminant Generation Company versus the EPA, the courts held that the EPA had no authority to overturn the decisions of the states so long as the basic requirements of Section 110 are met.

More recently, the D.C. Court vacated the EPA's cross-state air pollution rule, or CSAPR, as it has come to be known, with apologies to my hometown of Casper. The court's 2012 opinion in the CSAPR case is illustrative for our purposes because the EPA used very similar arguments to justify their authority in CSAPR as they're using today for regional haze.

In vacating the CSAPR rule, the D.C. Circuit Court writes, quote, under the Clean Air Act, the federal government sets air quality standards, but states retain the primary responsibility for choosing how to attain those standards within their borders. The Act thus leaves it to the individual states to determine, in the first instance, the particular restrictions that will be imposed on particular emitters within their borders, unquote.

The court goes on to write that, quote, the statutory federalism bar prohibits the EPA from using the SIP process to force states to adopt specific control measures.

In addition to Section 110, Section 169 lays out five additional criteria specific to regional haze required of the State. Those have been mentioned already. I'll skip the list.

Just as in the case for Section 110, the State

of Wyoming has met all five of these regional haze requirements. In fact, the State's work surpasses the EPA's in quality and reliability. Nonetheless, the EPA disapproves of Wyoming's analysis of cost of compliance and degree of visibility improvement.

Section 8 of EPA's proposed rule reads as follows. Quote, because Wyoming relied on visibility modeling methodologies that are inconsistent with the statutory and regulatory requirements, we do not consider Wyoming's analysis of visibility improvement to be reasonable. The EPA continues, quote, we are not relying on the State's cost. We propose to find that Wyoming did not properly or reasonably take into consideration the cost of compliance, unquote.

Again, I'll leave the technical arguments to the capable people at Wyoming's regulatory agencies. However, Representative Lummis finds these statements to be particularly egregious, given the EPA's own lack of credibility on the subject of either visibility air modeling or cost compliance.

I will briefly cover both. First, air modeling is a complicated and ever-evolving science. There is no way to perfectly predict control technologies' effectiveness. In order to harmonize the competing modeling tools, the EPA dictated in 2005 that the

so-called CALPUFF model is the best available tool for modeling. Initially the State of Wyoming used the CALPUFF Model 5.711a in accordance with the EPA's guidance at the time.

Shortly after completion of the State's plan, the EPA established CALPUFF Model 5.8 as the approved version, immediately creating a nearly impossible comparison with the State. All of that is somewhat irrelevant, however, as the scientific community has moved on from both of these modeling versions to a more modern CALPUFF, Version 6.42.

Measuring Wyoming's plan against the EPA's without the use of the most modern modeling techniques available is a difficult undertaking. Wyoming followed EPA's guidelines, but it is EPA's own bureaucratic inertia that keeps the agency from updating its approved version of CALPUFF to the most modern form.

I should note here that Representative Lummis has authored legislative language, included in the FY14 Interior and Environment Appropriations bill, that would require the EPA to begin the process of updating its modeling techniques. Until this is accomplished and the State has ample time to run visibility models based on a common approved modeling technique using the newest technology, the EPA's opinion regarding Wyoming's

analysis of visibility is questionable at best and dead wrong at worst.

Cost of compliance estimates is similar. However, like modeling techniques, one can estimate the costs to a reasonable degree of variance if the most up-to-date and most granular data is used. Others have noted the generalized data used by the EPA. Representative Lummis concurs with those comments but would also like to point out that while the EPA makes a point of saying in their proposed rule that they have followed their own guidelines in the EPA Control Cost Manual, that manual has not been updated since 2002.

Again, I should mention that Representative Lummis has authored language to require the EPA to update its cost manual for the first time in over a decade. The old data in the old handbook no longer reflects the true costs of designing, engineering and installing controls. Before rejecting state data on the cost of compliance, the EPA must engage states and regulating entities to acquire real-world cost data and use that data to update its manual.

Further, the EPA should not employ sleight-of-hand tricks that count the benefits from previously installed emissions controls when counting the costs of required new emissions controls.

Now, the EPA might feel uncomfortably stretched from a resource standpoint to update these tools. However, I note that the EPA found the time and resources to update in two and a half short years the so-called social cost of carbon and slid that monumental change into an unrelated regulation pertaining to microwave ovens. I have every confidence the EPA could accomplish these important updates in short order if it was a priority.

I will close at this point. Representative Lummis is a fifth-generation Wyomingite. You will not find a person who cares more about this state, its people, its land and its resources than she does. What you will find in this room and outside these doors is a collection of people who, like Representative Lummis, Senator Enzi and Senator Barrasso, fiercely love and are fiercely proud of this state.

We will always work to ensure that our children and grandchildren can enjoy life here just as we have, not because the law tells us to, but because it is our home, and protecting it is in our heritage. The EPA can play a constructive role in that effort, but only when it comes alongside the State and operates with the full understanding and cooperation of those affected, as the late Senator Muskie said.

For these reasons mentioned, and on behalf of Representative Lummis, Senator Enzi, Senator Barrasso and the Congressional Western Caucus, I ask you to withdraw the rule to impose a regional haze federal implementation plan on Wyoming.

Thank you.

MS. FALLON: Thank you, Mr. Obermueller.

Next, Gary Cox.

MR. COX: Thank you. The recorder will like me after the last person because I'm just a small-town boy, think slow, talk slow. So take a break.

My name is Gary Cox, G-A-R-Y C-O-X. I'm the senior assistant business manager of IBEW Local 57 out of Salt Lake City. We represent the employees of Rocky Mountain Power and PacifiCorp, which includes the Naughton plant. We don't represent Bridger, DJ or Wyodak.

I had the opportunity to attend the hearings last summer. And since those hearings, I've had the opportunity to travel throughout many of the western states on my motorcycle, including Wyoming, Utah, Colorado, Montana, Idaho, Nevada and South Dakota, over 5,000 miles. I paid particular attention to the visibility and the quality of the air due to my -- due to my interest in this issue of regional haze.

As you recall when we had the public hearings in Cheyenne and Rock Springs, the air was horrible at that time because there was the Oak Creek fire which was going on in Utah, as well as the Fort Collins fire and several other western fires. In fact, you couldn't even see the stack of Bridger from Interstate 80 as you drove by.

I made a similar drive last November along the same route, and lo and behold, the skies were clear and pristine, in spite of the fact that all of the stacks from Naughton and the Bridger generating facilities were active. As a resident of the state of Wyoming for over 22 years, I learned to appreciate the clean air and blue skies, as well as the outdoor opportunities that this state affords.

When I moved to Utah to accept my current job, I have a whole new appreciation for Wyoming's clean air. As you're aware, during the wintertime and sometimes during the summer, there are inversions that set in along the Wasatch Front, and the State begins to issue air warnings.

It always amazes me that as the air gets bad, the news cameras and Mothers for Clean Air and several other groups always use the smokestacks of the Gadsby plant or the Lake Side plant cooling tower fog as a

backdrop to reinforce the need to eliminate coal-burning plants, even though Gadsby hasn't burned any coal since the 1980s, and the Lake Side plant never has and never will.

During the winter months, to my knowledge, the closest coal-fired power plant is the Intermountain Power Project, which is 145 miles away, with prevailing winds that take the emissions south of the Wasatch Front.

In my travels and my experience, I believe the main contributions to the regional haze are wildfires, and has been previously mentioned, pollution coming from overseas. My wife and I were recently in San Diego, and lo and behold, you could see regional haze coming in off the ocean. I'm quite certain there aren't any power plants out in the ocean. But nonetheless, the haze was coming in.

Other things that contribute are vehicle emissions and human emissions in large population centers. I believe Wyoming's implementation plan is responsible and should be adopted. I believe if the federal government wanted to truly address the regional haze issue, it would take measures to manage the forest and reduce wildfires. If the EPA truly believes the elimination of coal-fired power plants is the source that impacts the surrounding states, I would propose that the

EPA mandate a one-month shutdown of all coal-fired power plants in the western United States beginning the first of this August. I believe that would show us what the real impacts, not only environmental, but economic, to closing these coal-fired power plants would have not only on Wyoming, but the surrounding states.

I believe that regional haze is another tool for the EPA to use along with MATS, CO2 and other issues, to close down power plants that provide cheap, affordable power, as well as jobs here in the western United States. I believe if I were to travel the western states while all of these coal-fired power plants were shut down, there would be a negligible difference in visibility unless wildfires were controlled.

IBEW Local 57 represents approximately 600 citizens that work in power plants in Wyoming, Utah and Idaho. These plants produce low-cost electricity and provide not only those jobs for PacifiCorp employees, but due to the low cost of the electricity, companies such as IM Flash, Nucor Steel, Rio Tinto, Exxon, the trona industry, and even the NSA's storage facility, choose to do business in our region, rather than outsourcing jobs to other areas of the country or even overseas.

I am all for a clean environment. But as we close down our cheap coal-fired power plants, China and

India stand ready and willing to buy our mines and use our coal with no environmental controls whatsoever. Closing coal-fired power plants will cause electric rates to necessarily skyrocket at a time when this country can least afford it. I believe that is the real impact that the FIP would have not only on Wyoming, but the surrounding states, as well.

Thank you.

MS. FALLON: Thank you, Mr. Cox.

Next we have Mayor Randy Dyess.

MR. DYESS: Thank you for the opportunity to speak. My name is Randy Dyess, D-Y-E-S-S. I am the mayor of Buffalo, Wyoming, a small town in northeast Wyoming.

Today I was going to speak for the 4,585 people in Buffalo and the 8,500 people in Johnson County, but I'm not going to. I want to speak for every mayor in every city and every town. I want to speak for every farmer and rancher and every small business owner and senior citizen and all of the people on fixed incomes that need to turn their lights on. I want to speak for all the people who have no idea what is going to happen to them if this rule change proceeds.

My citizens in Buffalo know the wrath of the EPA. In the past fifteen years, our small town has

experienced EPA mandates to the tune of $20 million. So every one of my citizens already know what happens when the EPA comes knocking. What happens is all of their bills double or triple. So here comes the EPA again.

I'm not an expert on this topic. However, I've done my homework, and I've made several inquiries. What I have found is that Congress said the states needed to address haze around our pristine national parks and wilderness areas. And it was also made clear that the states were responsible for coming up with a reasonable plan and for the completion of that plan by the year 2064.

I have found that there are very smart and responsible people working at DEQ in Wyoming who have developed a plan and have implemented it. It appears that the EPA has approved some parts of the Wyoming plan and disapproved others. That is why we are all here today. The EPA has decided that they know best.

The facts are the Wyoming plan reduces nitrogen oxide by 63,000 tons, and the EPA plan reduces that by another 2,900 tons more, but at a cost of an additional $1.2 billion more than the Wyoming plan, but yet it does nothing to improve visibility. Okay. 63,000 tons versus 65,900 tons, but for an extra $1.2 billion. And that is just wrong. These additional costs will be passed down

to the consumers that are already facing financial challenges. This is the same as me buying European luxury cars for my police force. How long do you think I would last?

I have lived in Wyoming for 27 years. Over that time, there has been no haze in Wyoming except during wildfires. I love Wyoming, and I care about the environment. And I can assure you that we are better stewards of Wyoming than Washington can ever be.

Furthermore, in my little town, we don't have a coal mine, and we don't have a power plant. What we do have is pristine mountains and lakes that I can see from my window every morning. And I can assure you that not one of us in Wyoming will allow anything to happen to that.

The other thing that I have is people, businesses, ranchers. And I will protect them the same. Your plan does not -- your plan does not improve visibility. Even a mayor from a small town can read that much out of these reports. In my town, I answer to my constituents and all electeds to theirs. We are held accountable for our action, but who holds the EPA accountable for making rules outside of the scope of everything that I have read on haze legislation? Who do you answer to? The answer is you don't.

And I am sorry, but I cannot agree with this. This rule appears to be yet another agenda-driven attack on coal. In Wyoming, energy production is what builds our schools, our roads, funds the cities and towns and our hospitals. Energy production is what makes Wyoming what it is. This indirect attack on coal is a direct attack on every one of us. And I have and will continue to encourage every citizen and every elected official to take the opportunity of this comment period to send their comments to the EPA before the deadline of August 26th and voice their opposition to the EPA rule change.

In conclusion, this rule does nothing to change visibility. All this new EPA rule is -- all this new EPA rule does is destroy jobs, destroy our economy and hurt every man, woman and child in our great state. So speaking for my town and my county and my state, I support our governor and our Washington delegation for rejecting the EPA plan and for the EPA to approve Wyoming's regulations as they are.

Thank you.

MS. FALLON: Thank you, Mayor Dyess.

Next, Brian Larson.

MR. LARSON: Good afternoon. My name is Brian Larson, B-R-I-A-N L-A-R-S-O-N. I'm the plant manager for the Laramie River Station, operated by Basin

Electric and co-owned with five other members of the Missouri Basin Power Project. Missouri Basin Power Project is a group of consumer-owned energy organizations that built the Laramie River Station. Members include Heartland Consumers Power District in Madison, South Dakota, Lincoln Electric System in Lincoln, Nebraska, Tri-State Generation and Transmission Association in Westminster, Colorado, and Missouri River Energy Services in Sioux Falls, South Dakota, and the Wyoming Municipal Power Agency in Lusk, Wyoming.

I've worked at the Laramie River Station for more than 34 years and have witnessed firsthand the vital importance of being stewards of the environment. The many public power consumers served by the Laramie River Station will be directly impacted by EPA's proposal to require the installation of SCR technology.

Spending more than $750 million in additional capital costs, not to mention millions in annual operating costs to obtain little, if any, visibility benefit, is a waste of our consumers' money. It is not necessary to spend huge sums to make a substantial visibility difference. And Basin Electric has already done so.

The Laramie River Station began commercial operation in July 1980 with a permitted limit of NOx

emissions of .7 pounds per million BTU. However, the station was able to significantly beat those permit limits, achieving an average emission rate that was much lower, approximately .45 pounds per million BTU. In 1996 and 1997, the Laramie River Station replaced burner nozzles on all three units and again reduced the NOx emission rates to an average of about .27 pounds per million BTU.

Now, pursuant to the State of Wyoming's BART permit, Basin Electric is required to further reduce its NOx emissions to a limit of .21 pounds per million BTU and 14,474 tons a year in 2014 and reduce emissions even further by the end of 2017, to 12,773 tons per year, equivalent to .16 pounds per million BTU.

By 2017 the Wyoming regional haze plan will have required the station to reduce its NOx emission rate by 65 percent from the NOx rate emitted when the units were originally started up. This demonstrates that the State of Wyoming has achieved very substantial NOx reductions without undue and wasteful expense.

In 2010 the DEQ required a BART that calls for the installation of new low NOx burners and over-fired air controls to reduce NOx emissions. These NOx controls will enable the plant to meet the State's BART limit of 14,474 tons per year for all three units combined. This

is a reduction of 5,956 tons per year from the 2001 to 2003 baseline emissions identified by EPA's consultant as a reduction of almost 32 percent under the Wyoming plant, without requiring hundreds of millions of dollars to be spent.

To put the reductions already achieved in perspective, the combination of past reductions and future required reductions results in total NOx reductions at the Laramie River Station of .29 pounds per million BTU. So we've gone from .45 to .16. This has been done at a -- we did a significant reduction at a reasonable cost.

In contrast, EPA proposes to require the expenditure of $700 million to reduce NOx emissions further from .16 to .05, a reduction of only .11 pounds per million BTU. Less than half of that has already been accomplished. Basin Electric submits the cost is disproportionate to the reductions achieved and results in minimal, if any, visibility limit.

The EPA's proposed action is also based upon assumptions about the Laramie River Station which I feel are inaccurate. Basin Electric has retained experts to identify and document these errors, and I will let them speak to the technical issues directly.

The first is Mr. Ken Snell of Sargent and

Lundy, who will summarize the work his firm has done to estimate site-specific costs for the selective catalytic reduction technology that EPA contends is BART. The second is Mr. Bob Paine of AECOM, who will explain the work his firm has done regarding modeling and assessment of the negligible visibility improvement that would be accomplished by EPA's BART for Laramie River. Basin Electric believes that both of these presentations will provide new and additional support for the State's BART determination and illustrate why EPA's proposal is not justified.

EPA's plan would require expenditures of hundreds of millions of dollars just at the Laramie River Station and achieve no perceptible improvement in visibility. Basin Electric, therefore, opposes EPA's proposal to require the installation of selective catalytic reduction technology at the Laramie River Station and urges EPA to approve the State of Wyoming's regional haze plan as it relates to the station. The 32 percent NOx reduction required by the State's regional haze plan is a substantial reduction on top of previous reductions achieved by the plant and is therefore a BART determination that is more than reasonable.

Thank you.

MS. FALLON: Thank you, Mr. Larson.

Next we have Ken Snell. We have several people that ceded their time, so he has longer to speak, and those were Mary Miller, Doug Buntan, B-U-N-T-A-N, Denise Kennedy, D-E-N-I-S-E, and Anine, A-N-I-N-E, Lambert.

UNIDENTIFIED SPEAKER: I think you missed mine. I had it on there, too.

MR. SNELL: Good afternoon. My name is Ken Snell, K-E-N S-N-E-L-L. I'm a senior environmental consultant with Sargent and Lundy Engineers. Sargent and Lundy is one of the leading engineering design and construction firms in the country. We've been in business for more than 120 years, and our focus is exclusively on the electric power generating industry.

Sargent and Lundy is not a manufacturer of air pollution control technologies. We're not a construction company. We're an independent engineering design and consulting firm, and so we're able to give what we consider independent and objective consulting services to our clients.

Throughout the United States, we have more than 150 fossil power generating clients, and we have engineers -- hundreds of engineers that work on power plants every day, and they're very knowledgeable of all the air pollution control technologies that are available to control air emissions from existing coal-fired power

plants.

With respect to the control of NOx emissions from coal-fired power plants, Sargent and Lundy has completed more than 72 power plant projects for SCR installation and design, representing more than 37,000 megawatts of generating capacity, more than any other design and engineering firm in the United States.

Basin Electric hired S and L to develop site-specific cost estimates for SNCR technology, which hasn't really been discussed today, and selective noncatalytic reduction, and also for the selective catalytic reduction, or SCR technology, which EPA is proposing is BART for the Laramie River Station.

Sargent and Lundy was asked by Basin Electric to prepare these costs in accordance with the BART guidelines and the rules and regulations. Basin Electric also asked us to compare these costs to the cost estimates that were prepared by EPA's consultant. EPA hired Andover Technology to prepare cost estimates with the same control technologies at the Laramie River Station, and EPA's BART evaluation was based on the control technology cost estimates prepared by Andover Technology.

And I think, as everyone has heard from the discussions today, that cost is a key parameter and one

of the five parameters that the state or EPA is required to take into consideration when developing a BART determination.

By way of introduction, the approach Sargent and Lundy used to develop the control system cost for the Laramie River Station, we followed the BART guidelines as they're described in 40 CFR Part 51 Appendix Y. We followed, where possible, the approach that's required to prepare these control technology cost estimates that's included in EPA's OAQPS Control Cost Manual.

And we also developed our costs taking into account site-specific design or other conditions that affect the cost of a particular BART technology option. That statement is highlighted in red because it's taken directly from the BART guidelines and from EPA regulations.

By contrast, the cost estimate that was done by Andover Technology and upon which EPA relied took a completely different approach. Andover calculated capital costs, both direct equipment costs and indirect installation costs, using EPA's integrated planning model, or IPM, cost algorithms. This is an approach that is really inconsistent with the BART guidelines, and it's inconsistent with the approach that's described in EPA's cost manual.

And Andover also relied on aerial photographs to come up with what they consider to be site-specific conditions that may affect the cost of the BART control technologies. Again, we think that's lacking and doesn't meet the requirements of the BART guidelines. And, in fact, we think, in our opinion, Andover Technology's costs are so lacking that to rely on them to make a BART determination would be arbitrary and capricious.

My presentation, like I said, is going to focus on the cost estimates that were prepared to install SCR controls on the Laramie River Station. We reviewed the cost estimates that were prepared by Andover Technology, EPA's consultant, and we found that there were at least three fundamental errors and omissions that were in the report that rendered them grossly inaccurate.

First, like I mentioned, Andover used the IPM cost models to calculate control system costs, both capital costs and operating and maintenance costs, or O and M costs. Second, Andover failed to take into account any site-specific conditions that may affect the costs of installation of SCRs at the Laramie River Station. And third, Andover also failed to take into account any balance of plant costs that would be required to upgrade, replace existing systems at the plant that would be needed to install and operate SCR at this facility.

To get into a little more detail with respect to the IPM cost modules, the IPM model is a model that EPA uses to evaluate the cost impact of regulatory programs on a system-wide basis, on a utility/electric generating-wide basis. And the cost modules that are in the IPM model were actually developed by Sargent and Lundy. And the cost modules that are in the model are high-level generic models that were never intended to develop project-specific or site-project costs.

The inputs -- because the IPM model is used to do system-wide evaluations, the inputs to the model are very limited. They're limited to the unit size, the heat rate, which is an efficiency calculation, the coal type and then a subjective retrofit factor. Those are the only four inputs that go into the IPM model. And the IPM model, again, even with those inputs, doesn't calculate a site-specific or project-specific or case-by-case cost estimate that's required by the BART guidelines.

With respect to other -- more of the site-specific considerations that Andover failed to take into consideration in their cost evaluation, one of the most significant ones is that -- and really, just a fundamental one -- is that Andover didn't take into consideration site elevation. The IPM models are based on -- the cost algorithm in the IPM model are based on

the unit located at sea level. And the Laramie River Station is at an elevation of 4,750 feet. At this elevation, flue gas flow rates from the Laramie River boilers will be about 20 percent greater than a similarly sized unit at sea level. With the larger flue gas flow rates, the larger volumes, they require more ductwork, bigger SCR reactors, increased fan capacities and increased structural supports. And all of these considerations significantly increase the cost of an SCR compared to the costs that are calculated in the IPM model.

The second thing that Andover did take, just as a fundamental input into the IPM algorithms, was to take into consideration any labor and productivity factor. The labor and productivity factor is a factor that's used whenever you prepare a cost estimate for a large, complex construction project anywhere in the United States. And it's designed to take into account local workforce characteristics, local unemployment and labor availability, the location of the project, the project complexity, and also local climate and working conditions, all which affect large construction projects throughout the United States.

And without going into detail, which we'll provide in written comments, Andover failed to provide --

or, include an adjustment for labor and productivity, which would have significantly increased the cost of labor in their SCR cost estimates.

Andover's only attempt to account for site-specific conditions at the Laramie River Station that may affect the cost of the installation and construction of SCR control technologies at the station was to take a look at the aerial photograph. But aerial photographs don't provide much input or much information regarding the site's congestion and site-specific conditions that you're going to have to address to install SCRs.

One of the primary things, for example, from this aerial photograph, you can't see that the Laramie River Station conveyor rooms are located inside the boiler buildings directly above the boiler economizer. And the boiler economizer is where you tap into the existing system to install an SCR. And you can't see from the aerial photograph that the conveyor rooms are located directly above the economizers inside the boiler building.

Probably more significantly is that also you can't see from the aerial photograph that the existing forced draft fan buildings, or the FD fan buildings at the Laramie River Station, are located inside buildings that you can't see from the aerial photographs. The

forced draft fans have to remain in place. They're not something that you can move. And the location of the FD fan buildings are really directly below where the SCRs are being installed. And it's something that Laramie River or Basin Electric would have to design around in order to install SCRs at this facility.

The other thing, although you can see maybe a little bit of the site congestion, you can't really see how congested this site is within and in between the three units. For example, between the FD fan buildings, which are right here, and then the existing electro-static precipitator, or ESPs, which control particulate matter emissions, there's only about a 20- or 30-foot space in between those two existing buildings. And Laramie River is going to have to construct a significant construction project in a very congested area.

Other things that you can't see from an aerial photograph is how you were going to tie in the SCR to the existing economizer. It needs to be tied into the economizer and then returned back to the air heaters. You can't see how that's going to be done from an aerial photograph. It provides no information on the location or where you may be able to put the anhydrous ammonia handling system. SCR control systems require large anhydrous ammonia handling systems for NOx

reductions. And you can't see where you're going to put the anhydrous ammonia system, how much piping is going to be required and the costs that will be associated with the ammonia handling system.

And then finally, the aerial photograph doesn't provide any information on the existing plant subsystems that may have to be modified as part of an SCR project.

Again, when Sargent and Lundy prepared our cost estimate, we took into consideration, as required by the BART guidelines, site-specific conditions and constraints that are going to affect the cost of installing SCRs at Laramie River. We went on site and we conducted a site walk-down. We established control system design parameters for the SCR control system. We prepared what's called site-specific general arrangement drawings that will show how the SCRs will be installed at Laramie River.

We identified site-specific construction challenges that would be associated with building these SCR control systems. We reviewed the capability of the existing plant subsystems to see if they could handle an SCR control system. And then as required by the BART guidelines, we determined the capital costs based on the design parameters, the general arrangement drawing and the site congestion.

What I'm going to go through here is just to give you a flavor of some of the site conditions that would affect the cost of SCRs at the Laramie River Station. And one of the first ones is, like I mentioned earlier, the location of the boiler -- conveyor rooms within the boiler building.

This is a 3D model of the site general arrangement drawings that we prepared to install SCRs at the Laramie River Station. These large buildings here are the three existing boiler buildings. These large structures here are the existing electrostatic precipitators. These are the FGD or SO2 control technologies that are existing at the facility. And the SCRs that would be installed would be installed here.

As I mentioned, one of the site-specific constraints that you can't see from an aerial photograph is the fact that at the top of these buildings here, in the existing boiler buildings, that's where the conveyor rooms are on the Laramie River Station. So you can't -- when you tie in the SCR to the unit's economizers in the boiler building, you can't go through the roof to get the flue gas up to the SCR. You have to penetrate the outside structure -- structural wall of the boiler building.

These boiler building walls at the Laramie

River Station are all structural buildings, and they hold up the boiler building. And the ductwork from the SCR -- from the boiler building to the SCR and from the SCR back to the boiler building will all penetrate the structural steel on these structures.

So one of the big challenges Laramie River would have is that they would have to redesign the structural columns and members on the boiler building, and that to make sure when they penetrate those structures, that the boiler building doesn't collapse.

If you go to that other slide, just to give you a flavor on the size of these things, the model looks kind of small and maybe manageable, but this is just a model of Unit 2. So this is just one of the units. And the boiler building part, the structural wall that will be penetrated by the SCR members is really equivalent to about a 20-story building. This is to scale, the size of the Laramie River boiler buildings, to the Wyoming state capital building. So this is -- I want to impress that this is a large, complex construction project that Basin would incur, and it's not a trivial factor that they would have to go through a structural support wall of the existing boiler buildings.

I think more significantly, like I said, in these areas down here, the existing FD fans are located.

And you can't relocate the FD fans as part of an SCR project. The SCRs would be located above the FD fans. And as you can see these little red lines, those are the structural support for the SCRs. The structural supports at Laramie River -- and this is a very unique situation for the Laramie River Station -- are going to have to go and penetrate the FD fan buildings. They'll have to go through the roof of the FD fan buildings, go through the floor of the FD fan buildings.

And the SCRs are also very large structures. They weigh in the range of something like five million pounds, and they're equivalent kind of to putting a ten-story building up in the air about 120 feet. So these structural supports have a lot of weight on them. They'll require deep foundations. And because of the location of the FD fan buildings, Basin Electric or their engineer would have to figure out how they're going to build these deep foundations.

At a minimum, it would take special drill rigs, what's called a low-overhead, low-head-room drill, that could be driven into the FD fan buildings and that the deep foundations would have to be drilled with a small drill rig, adding very significantly to the cost of the SCR project at the Laramie River Station.

And then the final thing from the aerial

photograph is just how Laramie River is going to get to Unit Number 2 to install the SCRs on Unit Number 2. This graphic shows on both ends very, very large cranes. These would be equivalent to the largest cranes that are available in the world right now for large construction projects. And getting to Unit 2 to provide the lifts that are required to install the SCRs in Unit 2, it's going to be very, very difficult at Laramie River Station.

One of the options they may have, but these are options that have to be decided during detail design, is that they may be required in these spaces over here to install what's called a tower crane, and it would be constructed on site during the project to make the lifts that are required to install SCRs on Unit 2.

So all these things are site-specific, site-congestion issues, construction issues that should be taken into consideration in a cost estimate that would support a BART determination.

The other thing that Andover failed to include in their cost estimate are any of the site-specific conditions that are required -- that are needed to upgrade, replace or install new subsystems to support the operation of the SCRs. The IPM cost models that Andover relied on do not take into consideration any of the other

plant subsystems that maybe need to be upgraded or replaced in order to install an SCR.

We did a site visit of the Laramie River Station. We evaluated the existing subsystems at the station, and we determined, based on our experience with SCR design and construction, that larger induced-draft fans, which are ID fans, will be required on all three units in order to operate the SCR. And the ID fans are very big, very large and very expensive subsystems that would need to be replaced as part of the SCR project.

We also determined that the existing electrical systems at the Laramie River Station would not be capable of handling the new fan loads and the SCR control systems. So significant upgrades to the electrical system would be required. And similarly, their control systems, the DCS systems, would need to be upgraded and expanded. And probably more importantly, structural stiffening of the ductwork -- of the existing ductwork at the facility downstream of the air heater and upstream of the new ID fans would also be required.

Just to give you an idea of this, again, back to the general arrangement drawing, the existing ductwork is this green ductwork that's shown here on the model. All the way through the existing electrostatic precipitators, those structures and ductwork would have

to be structurally stiffened as part of the SCR project. And the reason for that is because the larger ID fans that would be required to operate the SCR, changes of pressure drop through the entire system, and without structural stiffening, there's a chance -- well, first off, structural stiffening would be required by NFPA codes, but then there's also a chance that these existing systems would implode.

So that would all be part of the SCR project at Laramie River Station. And these are not trivial buildings, either. The existing ESPs at Laramie River, all of these on these models are approximately 50 yards in length. So they're huge structures. To do the structural stiffening, you have to go inside of these structures and do the work on the inside. It's going to increase the amount of steel required for the project. But more importantly, it's going to increase the time required for the project. And because the work has to be done inside, it will require a lengthy outage of each unit in order to do structural stiffening.

And then finally, we also think because SCRs -- because SCRs also promote SO2 to SO3 oxidation across the SCR catalyst, we think because of the control systems on Units 1 and 2, that the dry sorbent injection system would also be required to minimize sulfuric acid mist

conditions produced from those two units as part of the SCR projects.

Based on our site-specific evaluation of the cost to install SCRs at the Laramie River Station and following the guidance in EPA's guidelines and the methodology in EPA's OAQPS manual, we think the capital investment to install SCRs at the Laramie River Station will be in the range of about $250 million per unit. That's the capital costs, including purchased equipment costs, installation costs, freight, indirect capital costs, all the items that are required to be included in the cost -- capital cost estimate by the OAQPS manual.

The next slide shows just a brief comparison of the costs that Sargent and Lundy came up with, the site-specific costs that Sargent and Lundy came up with to install SCRs at the Laramie River Station, compared to the costs that were in the Andover report. And like I mentioned before, some of the site-specific things that Andover failed to include in their evaluation were the effective site elevation, regional productivity, the site congestion and the construction challenges that Laramie River is going to face.

Probably the biggest thing are all the subsystems that are going to have to be upgraded, including stiffening of the existing ductwork and ESPs,

other indirect costs that are allowed by the Control Cost Manual Andover failed to include in their cost estimate.

So we really think, in our opinion, that Andover's cost estimate is about 50 percent below the costs -- or, 50 percent of the costs that Basin Electric would incur to install SCRs on the Laramie River units.

Based on our cost estimates and using the approach that's in the Control Cost Manual, we annualize the cost of capital. So that's the $250 million per unit. You annualize that capital cost. You add annual O and M costs to that to come up with a total annual cost to operate the system. And in our opinion, the total annual operating cost -- or, the total annual cost to operate SCRs at Laramie River will be in the range of $31 million per unit. And that compares to approximately 15 to 17 million dollars per unit that were included in the Andover report.

And then based on NOx emission reductions that may be achievable at the units, we think the cost effectiveness for the SCRs -- and this is cost effectiveness that's calculated based on the existing combustion controls that they have in place and then taking into consideration the costs for the SCR and the NOx emission reductions that you can get with SCR. The cost effectiveness of SCR on the Laramie River Station is

more in the range of about $9,300 per ton, compared to the $4,700 to $5,300 per ton in the Laramie River report.

So, to conclude, we don't think, in our opinion and in our review of the Andover Technology cost evaluation, that Andover did not follow the BART guidelines or EPA's Control Cost Manual, both of which are required in order to do a BART cost estimate. Andover used the IPM cost model, which is a very high-level generic cost model for calculating system-wide cost impacts. And it's a cost model that was never intended to calculate unit-specific costs.

Andover completely failed to consider site-specific conditions that will affect the cost of SCRs at the Laramie River Station, things such as site elevation, regional productivity. Andover failed to include balance-of-plant costs that will be required to install and operate the SCR control systems successfully, most importantly, things like the ID fan replacement requirements, electrical system upgrades and then also the existing ductwork and boiler stiffening requirements.

And in our opinion, Andover's errors and omissions result in cost estimates that are about 50 percent or more below the cost of SCR at the Laramie River Station or the cost that Basin would incur to install SCRs at the Laramie River Station. And in our

opinion, the Laramie -- the Andover cost estimates are so lacking that to rely on them to make a BART determination would be arbitrary and capricious.

Thank you.

MS. FALLON: Thank you, Mr. Snell.

Next we have Robert Paine. We have several people ceding their time to Mr. Paine. Those include Larry Volmert, V-O-L-M-E-R-T, Bill Stafford and Lyle Witham, W-I-T-H-A-M.

MR. PAINE: Again, my name is Robert Paine, P-A-I-N-E, and I'm going to talk about some of the visibility modeling aspects of the Laramie River Station BART assessment.

Just to give a quick review of my experience, I've been working in the field for 38 years, and I have a meteorology background, actually. I've been doing model development with EPA on the short-range model, AERMOD, but also getting into the weeds on modeling and evaluation of CALPUFF, especially as it pertains to these BART and also prevention of significant deterioration analyses nationwide.

I'm going to talk about -- and other speakers before me very eloquently stated, the BART modeling procedures that EPA continues to insist upon are really outdated. The critical component of the chemistry in the

model on nitrate is important, but the algorithm is outdated. And so the modeling overpredicts the visibility improvement, especially in the critical season of winter, as we're going to see.

If you can do a -- and we can do back trajectories. I'm going to show you an example. It indicates that the Laramie River Station rarely contributes to observed high nitrate days at these parks. And as other speakers have told us before, the real problem that EPA should insist upon looking at is wildfires and not nitrate haze. Because the NOx emission reductions would have no perceptibility at the Class 1 areas that are in play here.

And this is a map showing -- I'm going to point with a pointer here. It's Slide Number 4 for those following along in the transcript. The red star is the location of the Laramie River Station. Then we have Wind Cave National Park and Badlands up in South Dakota and a couple of other Class 1 areas, Rawah and Rocky Mountain National Park in Colorado.

But the prevailing winds in the modeling have more of an impact with the winds from the southwest advecting towards South Dakota. So I'm going to have most of my discussion on impacts on the South Dakota Class 1 areas.

I'd also like to note, ammonia is very important because in order to convert nitrate, which converts from NOx as oxidation to ammonium nitrate particulate, you need to have ammonia. And we have a very low ammonia corridor from the power plant to the affected Class 1 areas, or at least what the model thinks are affected Class 1 areas. This report is from a National Oceanic and Atmospheric Administration report. So we have a very low ammonia availability, but that's not what is input to CALPUFF by EPA.

As other speakers have noted, there are modeling updates that have occurred since the now seven-year-old protocol. They really need to be considered. We are dealing with really old and unsupportable science here. And just saying, "Oh, it's a protocol. We got to keep looking at it. We have to keep using it," that's inexcusable, I would say. We have new ammonia measurements. Don't use two parts per billion all year. It's not two parts per billion all year. We have more accurate measurements. They should be used. And relying on a fifteen-year-old report, the Interagency Work Group on Air Quality Modeling, as the only guidance is not supportable.

There is competition for the available meager ammonia, and that has to be accounted for in the

modeling. And to do this, what we're doing and what we're going to provide to EPA is we model the three units, and then we change one at a time. And that accurately in the model, at least more accurately, accommodates the chemistry.

Also, there is a new IMPROVE equation. IMPROVE stands for Interagency Monitoring of Protected Visual Environments. And that equation converts particulate measurements to haze. And we're going to see some examples of those measurements. That should be used in the modeling, as well.

What we do -- this next slide, Number 7, by the way, actually shows you some of these new ammonia measurements that's been collected by Colorado State University in a project managed by Jeff Collett. And we have Wind Cave and Rocky Mountain measurements, as well as several other Class 1 areas. We see -- and you can hardly see this, but there's an important seasonal variation in the ammonia -- the total ammonia measurements. And in the winter, it's minimal because, as you can imagine, everything is frozen, and there's very little production of ammonia by natural processes in winter.

This paper was presented at the 2012 Air and Waste Management Association visibility specialty

conference. And we have used these measurements in some of our new modeling just to indicate the sensitivity of a modeling that is more accurate input.

Let's look at some of the results. We have here on the Y axis the difference -- that is, the visibility improvement predicted by CALPUFF when you go from the existing NOx controls at a given unit, they're pretty much all the same at Laramie River Station. When you go from low NOx burners and over-fired air controls to SCRs -- and this is at the Badlands National Park. Now, using the old protocol and EPA's procedures, you would get about a .43 as a delta deciview, which is a measurement of visibility improvement.

When we go to more accurate modeling of the effects of all the units on the ammonia consumption using the high two parts per billion ammonia, this is reduced. And if you use the more accurate seasonal ammonia, which we'll document in writing, you get even more of a response. When you go to the new IMPROVE equations, yet another response. And we get down to .27, or about a 40 percent reduction from EPA's approach. But that's -- there's more to consider on top of that change.

There is an inherent -- as other speakers have noted, there is an inherent conservatism in the old version of CALPUFF that are continuing to be used by EPA

and even at the Western Regional Air Partnership, which is the regional planning organization that is managing the coordination of all this BART activity in the western states. They had a presentation in 2005 where they talked about this overprediction problem. And this is from their own slides. Basically, the model CALPUFF, at least in the algorithm that's used and insisted on being used by EPA, the chemistry isn't suitable for ambient conditions under 50 degrees Fahrenheit. Guess what? All of the predictions on haze occur in winter. And it's less than 50 degrees Fahrenheit in Wyoming and South Dakota.

Also, they state that the nitrate haze is particularly inaccurate, overstated and unreliable. Not my words, but the words of WRAP. EPA's own rule, the BART rule published in the Federal Register on July 6th, 2005 said the simplified chemistry in the CALPUFF model tends to magnify the actual visibility effects of the source. EPA doesn't do anything about this statement. They just put out the results of a model that it is accurate.

Various overprediction issues. First of all, the base case that is used to figure out the improvement in visibility from NOx reductions starts with the worst-case emission day, and it models that day as if it

happens every day of the three years being modeled. That's impossible. And then CALPUFF keeps the plumes too compact. So, when the plume does hit a target, it's too concentrated. The chemistry -- as I've noted before and EPA admits, the chemistry overpredicts nitrate formation in winter.

As Pete Obermueller very eloquently expressed, EPA has been -- the scientific community has been hammering EPA on this. EPA has been far too slow in adopting chemistry updates and adopting monthly money inputs to CALPUFF that have been proposed for years. And they just keep going back to, oh, it's a guideline model. It's a protocol. We can't divert from it. Sorry. Otherwise, we would have to change and start all over again. That's not really supportable scientifically.

Independent evaluation studies that are very recent indicate that the current CALPUFF nitrate haze overpredicted the real haze by a factor ranging from two to four. And the best I can do, since I probably won't be able to use a more accurate model, is to take what I've got let's say from my .27. If I apply a correction factor from these independent evaluations, my estimate is that the haze improvement from putting SCR on one of the Laramie River Station units might get you a .1 delta deciview haze improvement.

Now, guess what? The 1999 regional haze rule says that that level is a no-degradation level, too low to require emission controls. And in my opinion, if these NOx emission controls are implemented, there will be no meaningful visibility benefit.

Now, let's look at some very interesting data. This is a -- have to dwell on this because this is data from an IMPROVE monitor. Basically, the speciated particulates are then converted by the IMPROVE equation into haze. The haze in units here is inverse megameters. And the colors are the different species of particulate. And the most important ones you should look at are the red, which is ammonium nitrate. That's where the NOx comes in.

Now, the green is organic matter, which is really volatile organic compounds mostly from forest fires, as you can see it. Everybody knows that the forest fires give you the worst haze results. And voila, the data shows this. And, in fact, all these W days, which are the worst 20 percent of the days, happen to occur in summer. And this is, by the way, 2008 at Wind Cave.

Look at the red. The red is hardly there. And that's because there's a seasonal dependence that I'm going to talk about. This seasonal dependence happens

because the chemistry favors cold and wet conditions for NOx emissions to form particles. Otherwise, it forms invisible vapor, not haze-causing. So NOx emissions do not cause haze in warm conditions. It only causes, really, haze in the cold winter conditions. And we're going to talk about the visitation aspects of that later on. This data source, by the way, is in the footnote of this slide.

Let's go on to a couple more years. Again, we see the nitrate component is mostly in winter. Hardly at all there in summer, when most of the visitors are there. We've got the fire-caused haze again showing up in the real data. It's not just people's imagination. The data shows this.

2010, look at this event here. It dwarfs all the other records, but I decided to look at, okay, let's check the highest nitrate haze day in 2010 and look at the back trajectory to see where the air might have come from for Wind Cave on that day. I think it was February 1st.

So there's a tool put out by the National Oceanic and Atmospheric Administration called HYSPLIT. And what you can do is you can say, okay, if I want to know where the air came from at a particular date at a particular place, give me a back trajectory. And we went

back 72 hours, and so, basically, 72 hours before the target day. An air parcel started out in northern -- northwestern Montana. And there was a southerly wind, and it went up to Alberta, where, you might know, there's a lot of NOx emissions. And then a cold front came through and pushed the air parcel down to Wind Cave.

So the worst day in 2010 -- and by the way, the Laramie River Station location is here. It's nowhere near the trajectory that might have caused the high observed nitrate formation. We have got issues. And there's several of these trajectories. During winter, guess what? Northwest winds that are steady, you're going to get flow from Alberta. Is Alberta covered by the regional haze rule? No. What are we going to do about it? Well, we can't have Wyoming make up for the fact that Alberta is causing haze in Wind Cave.

And then we've got the forest fires. As we've seen from year after year, the data shows that during the summer, when you expect the peak visitation, you've got the worst haze caused by wildland fires. It's much more of an important issue than nitrate, which occurs in the winter, which has the lowest visitation. The priorities are screwed up by EPA. You've got to be looking at wildfires. And other speakers have said this. Nitrate haze is going to be the lowest bang for the buck. You've

got to look at wildfires. Petroleum wildfires can get you a lot closer to better visibility. Again, just looking at this actual data, wildfires dominate the worst haze days.

Now let's talk about visitation. EPA doesn't like to consider this, but you should, because I'm going to give some citations from the regional haze rule. Know that NOx chemistry for creating haze is very seasonal. The emissions can go into either invisible vapor, which happens during the warmer periods, the warmer seasons, or in haze in the coolest and wettest conditions when the visitation is lowest and the ammonia is limited, especially in this particular location, as we've seen from a previous fact. During the highest visitation month, the data has shown nitrate emissions cause very little haze, so all of these emission controls would have hardly any effect at all. In fact, the extra power required to run them might actually make haze worse in the summertime.

Here are some citations from the regional haze rule and BART rule, et cetera. The time of year is important to consider visibility impacts. There's a correlation of visitor use with visibility impairment. I'm going to show you some visitor data obtained from a website shown in the third bullet of this slide.

All right. This is a ten-year average of those speciated haze. And this is at Wind Cave. The visitation is in this connected red curve. And you can see that, well, obviously most of the visitation is in the summer. Now, the red is the nitrate haze averaged over ten years. And you can see it obviously drops to a very small amount during the highest visitation. At most, it -- it's at its highest during the lowest visitation. So this is the wrong target. The right target is the forest fire activity, which is highest during the highest visitation. You're going to get the most effect on visitor enjoyment if you go after wildfire issues, not nitrate issues.

Overall conclusions. The CALPUFF results, many people have noted this model, the old model, the old procedures substantially overstate visibility improvements from additional NOx controls. If you corrected these with application of evaluation studies and more improved procedures for ammonia concentrations, I would say you conclude that there's a no-degradation visibility benefit.

The wildfires are the most important cause of haze. They should be the focus. And the NOx emission controls would result in minimal -- first of all, the NOx emissions even now have minimal impact during peak

visitation due to the chemistry of nitrate haze. And it's not a key contributor during winter, as we've seen from those trajectories. Those trajectories we're going to submit are going to show that Laramie River Station is not the direction from which the haze is coming from, even in winter.

And that concludes my remarks.

MS. FALLON: Thank you, Mr. Paine.

We're going to go off the record for ten minutes and take a break for the court reporter. So we'll be back at ten after 3:00.

(Hearing proceedings recessed 3:00 p.m. to 3:11 p.m.)

MS. FALLON: We're going to get started again. So we're back on the record.

Our next commenter is Scott Sturm.

MR. STURM: Scott Sturm, S-T-U-R-M.

I appreciate the opportunity to comment on the U.S. Environmental Protection Agency's, EPA, decision to reject provisions of the State of Wyoming's plan for compliance with the Clean Air Act's regional haze program.

My name is Scott R. Sturm. I'm the president and general manager of Westmoreland Kemmerer, Incorporated, and the Kemmerer Mine. Westmoreland Coal

Company, our parent company, purchased the Kemmerer Mine in February of 2012 from Chevron Mining Company. For the past eighteen months, we have enjoyed much success and couldn't be happier with the acquisition and doing business in the state of Wyoming. We have established a strong presence in the Kemmerer community and the surrounding area.

The Kemmerer Mine, located just west of the towns of Kemmerer and Diamondville, Wyoming, has been supplying coal to PacifiCorp's Naughton power plant for just over 50 years. The power plant and the mine are the cornerstones of the community. However, that foundation is already at risk due to regional haze compliance.

On May 13th, 2013, PacifiCorp filed an air quality application to convert Naughton Unit 3 to natural gas. This conversion is proposed as an alternative to selective catalytic reduction, SCR, and full-scale fabric filtration. This change will obviously impact our production, employment in the area and pull tax dollars from our county and state. This will be done at the expense of the ratepayers and with significant risk of natural gas price variance.

That said, we adamantly oppose the recent disapproval of Wyoming's state implementation plan, SIP, by EPA, as it could lead to additional lost sales from

our mine and have a lasting impact on our community.

Furthermore, we oppose the EPA's decision for the following reasons. We support the State of Wyoming and the Department of Environmental Quality. They have proven their commitment to meeting the requirements of the Clean Air Act and have already made meaningful and lasting differences to regional haze through less expensive technologies.

Two, we support the utilities in their studies that show the EPA's costly requirements of SCR will provide no visible improvements to Wyoming's air.

Three, we cannot support any measure that even has potential to increase electrical rates to us, our employees and the residents and businesses of our region without providing, in return, perceptible and visible improvements in air quality.

The State of Wyoming has developed a comprehensive plan to protect and build on Wyoming's clean air, and Westmoreland Kemmerer, Incorporated, fully supports its efforts. We urge the EPA to reconsider its position and allow the great State of Wyoming to proceed with its own plan, the plan that has Wyoming's residents' best interests at heart.

Thank you.

MS. FALLON: Thank you, Mr. Sturm.

Next we have Erick Esterholdt.

MR. ESTERHOLDT: Good afternoon. Erick Esterholdt, E-R-I-C-K E-S-T-E-R-H-O-L-D-T.

Good afternoon. My name is Erick Esterholdt. My family has a farming/ranching operation in both Wyoming and Idaho in the Cokeville area. We grow barley, oats, alfalfa and cattle. Both my family and my wife's family homesteaded in Wyoming and Idaho. Our sons are the fifth generation of agriculture in this area. I'm pleased to have the opportunity to appear here this afternoon. I'm here today because I'm deeply concerned that the EPA's actions will result in increased energy costs and loss of tax base in our area.

The EPA's action, if implemented, could result in Naughton's Unit 1 and Unit 2 power plants also to convert to gas. It is my understanding from what I've read on the subject that there is not enough gas to replace coal. This would cause electric power rates to double and possibly triple if the EPA regional haze rule closes our coal power plants. Also, if coal plants put on SCRs and other controls, as I understand, it would cost the ratepayers about one billion dollars statewide and additional millions just to operate these systems.

My family irrigates with state-of-the-art energy-efficient center pivots and motor control centers.

Last month our power bill was $16,280 for one month. If this was to double or triple, we'd be out of business. I was talking to one of my neighbors about this concern, and he told me his power bill last month was over 30,000. He's also a farmer there. This would have a huge impact over all irrigators in the western United States. Most irrigators could not survive this massive rate increase.

Lincoln County depends heavily on affordable power and the revenue generated by the Kemmerer coal mine and Naughton coal generation units. This results directly in over 500 high-paying jobs in our area. This does not include supporting vendors and equipment suppliers. It also ensures we have a tax base to support some of the best schools and local government in the United States.

Many big cities and states are on the verge of bankruptcy. Detroit actually announced bankruptcy last week. They cannot afford these high power rates. Our country is running up record deficits. Industry as we know it would be forced to go out of business or raise the rates.

The news media refuses to accurately cover EPA's very important decision that is about to be made. Most of them are in alliance with the environmental groups. Therefore, the general public is again left out

of the loop, and they know very little of what's at stake today. Again, the general public will have to pay for this huge mistake, as stated by both Wyoming DEQ and the utility experts today.

If the EPA gets their way and utility companies do everything required at this huge cost, there will be little to no improvement in regional haze. The human eye will not be able to detect the difference. I'm not aware of any studies from the EPA on how much this will cost the economy of this country or the impact it will have on the citizens of this country. Wyoming's DEQ was prudent enough to include this information. This is a highly debated subject. Many world-renowned scientists claim climate change and regional haze have been based on junk science.

Having lived in the greater Yellowstone ecological system corridor all of my life, the most regional haze I've seen is off the Bonneville Salt Flats when there's high wind conditions or when the National Park Service's pathetic let-it-burn policy is followed. The only significant haze being produced in this country is from all the smoke and mirrors from the EPA and its friends of environment groups.

The EPA should defer to the State of Wyoming and to their own state implementation plan, which is

based on sound and factual investigation and engineering practices.

Thank you.

MS. FALLON: Thank you, Mr. Esterholdt.

Our next commenter is Ken Ball.

UNIDENTIFIED SPEAKER: He had to leave.

MS. FALLON: He had to leave?

Joe Kissack.

MR. KISSACK: I'm Joe Kissack. I'm from northeast Wyoming. J-O-E K-I-S-S-A-C-K. And I'm a Campbell County resident. I've lived there almost my entire life, a few years in Casper here and college once upon a time. But I'm a third-generation -- I'm a third-generation person from the oil field in Wyoming, fourth-generation livestock producer and fifth-generation American entrepreneur, and I'm very thankful that my family has that heritage.

My family has been in the oil business for 64 years. And it's very special to see family businesses, because most family businesses are small businesses. And there's a lot of those businesses in Campbell County that thrive until there's more costs, which I'll get to with the EPA.

The main thing I think of while I'm up here is that it's not about the EPA with their air restrictions,

what they want to do. It's about control. And I say this to the EPA, not the people here. But whoever he is typing that for is who I direct this to. It is not right what they're doing. They have no business, I don't think, to even be in business. Because federal dollars come from the state. And a lot of those state dollars come from Campbell County between the coal and the gas and the oil.

And my concern coming to this meeting today was, we're in the oil business. And actually, I'm not even in the business. I'm a schoolteacher. But I help with the family business when I can in the summers, mainly. And what I think of is, I came down here driving, thinking why am I coming down here? This is about coal. But really, it's about our way of life. It's about our production of energy, a true revenue that our county can produce.

How many counties and how many states can produce a true revenue that you go get it, and you can sell it, and people can use it at a low cost? Not everybody can say that, yet those are the things that are trying to be taken away from us, when to start with, the state already has the standards that it needs. We don't need the EPA, I don't think, for any reason. I think it's an incredible waste of time.

Knowing what these regulations do to the oil business, I thought of when I was driving down here, because this more -- this is a coal issue. But as far as I've ever seen, the government, we always take more and more. So, if they're after the coal business today, they're going to be after the oil field business at another time.

And what it does is the EPA, they have a budget, I'm assuming. Well, actually, they can't, because we haven't passed a budget in five or six years. But assuming that it was normal, they would have a budget. But they're not like a small businessman. A small businessman has to look at something and say, I can make money with that. I can buy that vehicle, and I can put it and turn it around to work for you. They don't have to do that. They just, well, it's going to cost more.

Well, with the coal business and the oil field business, they have to pass their costs on to consumers, as well. And this is all unneeded cost. And it's really, in my opinion, just for government control from the long, long, long arm of our president. That even goes back to him.

Now, one thing I did see in this, to address this goal, Congress requires EPA to adopt rules and

requires states to adopt revisions. I'm not really sure why we have them involved, so I'm assuming that it's because they're making themselves involved in this matter. Our own state has its own regulations on clean air.

We love our state. Like I said, I'm fourth-generation rancher. I've seen my grandfather, my dad and even family I never knew, because they've already passed away, take care of their ranch. Why wouldn't they? It's to their benefit to take care of their own property because they make a living off of it.

More regulation, all this means to me, thinking as a businessman -- from a businessman's perspective, ups the cost of business when something is overregulated. That's all it's doing. What does that do? If you tack this on plus Obamacare, if that goes all the way, that means less jobs. We can't afford to have as many employees. Less opportunity for entrepreneurs. I'd love to have my own business outside of the oil field. But it's -- you get looking at it and, well, geez, I got to pay this. I'm already paying 15 percent federal taxes. I quit looking at my pay stub. It makes me so mad to see all this money. Where does it go? We don't have a report from the EPA. We'll get one. I was talking to somebody about that earlier. But we don't get to really

look at it. We just have to say, well, I guess that's the way it is. Well, I'm tired of that.

I had to take -- I took a day off to come down here, an overtime day to come here because I love my country and I love the state and live in the best state that's out there. Meanwhile, the people use our money against us. But anyway, that's a different topic.

But because of the regulations from the EPA, if this goes through, it means a higher cost of business. And that means, for the coal industry, nothing good comes from that. They have to cut people's jobs because of regulation which is ridiculous. Everyone knows it. I mean, it doesn't take much to look outside across our great state and see that the air is just fine.

And it also means if the coal industry quits or gets knocked down, all the schools that Campbell County is wanting to build, who's going to build the schools? Where does the money come from? It comes from the true revenue that our state provides, which now is under attack. And I wish -- my hope is that we would recognize it's under attack. It's not, well, we just love our country and we will love the things that we can get from it, but it's under attack. We do not need this regulation. We need to have state authority.

Our state is just like a rancher that takes

care of his ranch. They know their ranch better than anybody else. Our state knows our state's needs more than anybody else. How in the world are they from another state, from Washington, going to decide what is best for us here? They still think we ride horses to work.

But less business, higher costs passed on to the consumer. My electric bills are already high enough. And all this does is add to that. We need to have less -- less of this regulation. We don't even need it. Our own state already has the things we need. We don't need to have what they think we need to have.

And I didn't come up here because I had all the facts. It was great to see the PowerPoint presentations by those who do. And now I'd love to see the ones that the EPA would have in contrast to that, in comparison. Because someone is not correct. And after seeing the PowerPoints that I seen today, that convinces me. Now I can see that on paper. This is how much it will cost. This is how much they say it will cost. Somebody is not telling the truth. But why is it? I'm not sure. I know my opinion.

But I do think that the main thing is that we don't need the EPA to tell us what to do at all, ever. Our state does that just -- our state does that in the

best way possible. Our own state --

MS. FALLON: Mr. Kissack, I'm sorry. I'm going to have to ask you to wrap it up.

MR. KISSACK: Okay. I will. Thanks.

But we pay for these things. We host the party, so to speak, because we have the energy in our own state. And we don't need anybody else telling us. Because our own state provides the things -- the regulations that I'm not opposed of. We need -- clean air is great. But we don't need someone else telling us. Because I think it's just government takeover. And that's my own opinion.

So my solution, keep it in the state and abolish EPA.

MS. FALLON: Next we have Todd Parfitt.

MR. PARFITT: Good afternoon. My name is Todd Parfitt, T-O-D-D P-A-R-F-I-T-T. I am the director of the Wyoming Department of Environmental Quality. I have commented at two previous EPA hearings on this matter, and I will be making just a few additional comments today in response to EPA's June 10th, 2013 reproposed action on the Wyoming regional haze plan. I will be brief in my comments regarding concerns and shortcomings of EPA's reproposed plan.

First, Congress created the regional haze

program within the Clean Air Act to address visibility at national parks and wilderness areas. This is not a health-based program. Other Clean Air Act programs are already in place to address health-based criteria. This is not a climate change program. There are other Clean Air Act programs in place or being proposed to address climate change.

The state, not EPA, has the authority in the first instance to determine which sources may reasonably be anticipated to cause or contribute to impairment of visibility and to determine which retrofit technology is appropriate for controlling emissions for the purpose of reducing such impairment.

Second, EPA's plan costs Wyoming utilities $180 million more in capital costs and $60 million more in annualized cost compared to Wyoming's plan. Projected over 20 years, the result is a cost to Wyoming utilities and ultimately to ratepayers of $1.2 billion more than Wyoming's plan, resulting in no perceptible difference in visibility.

To be clear, the Wyoming plan is not inexpensive. The Wyoming plan, however, is reasonable, considers all relevant factors, demonstrates reasonable progress, is legally appropriate, follows all of EPA's required procedures and uses sound scientific principles.

EPA's plan is unjustifiably more expensive. It does not consider all relevant factors. It is not legally appropriate, does not follow all of the required procedures, does not use sound scientific principles, and as an example, the use of Google Earth images to make engineering determinations, and yields no perceptible improvement to visibility over Wyoming's plan.

By the year 2022, EPA's plan and Wyoming's plan achieve essentially identical results for visibility. However, EPA's plan is significantly more expensive.

EPA -- thirdly, EPA has applied SCR, selective comment response, to the development of its reproposal and the public comment process, which is inappropriate. EPA's process has lacked transparency, particularly to the state. EPA has not acknowledged the governor's comments submitted last year. The EPA has not acknowledged the DEQ's comments submitted last year. DEQ was not consulted in the reproposal process. It would appear that EPA only considered select comments that support its predetermined agenda.

Wyoming's plan is reasonable and should be approved in its entirety. The DEQ fulfilled all requirements of the federal regional haze rule. Wyoming's plan sets reasonable progress goals, a long-term strategy and the best available retrofit

technology determinations in compliance with EPA's regional haze rule. EPA has not supported its proposition that Wyoming's plan is unreasonable.

The EPA and DEQ have a long history of working collaboratively together as partners in the implementation of environmental programs, which I believe is vital to achieving our environmental goals. Unfortunately, in this instance, EPA chose to abandon the collaborative process in favor of a process that has not been transparent and which has been, for all practical purposes, closed to the state.

The State's ability to communicate with the EPA on the reproposed regional haze plan has been limited to these public hearings and through our official public comments to be submitted within the next 30 days. Even then, the State had to petition EPA for reasonable review time, hearing dates and comment periods beyond the ten working days provided to prepare for the first and only scheduled public hearing.

Wyoming's plan is based on sound scientific principles, integrity and common sense that achieves the purpose of the regional haze rule. I once again urge the EPA to abandon its proposal and fully approve Wyoming's sound regional haze plan.

I want to thank you for the opportunity to

provide comments at this and previous hearings. And the DEQ will be providing detailed written comments within the next 30 days.

Thank you.

MS. FALLON: Thank you, Mr. Parfitt.

Next we have Steve Dietrich.

MR. DIETRICH: Hello. My name is Steve Dietrich. That's S-T-E-V-E D-I-E-T-R-I-C-H. And I'm the administrator for the Wyoming Department of Environmental Quality Air Quality Division. I've provided comments in each of the two previous EPA regional haze public hearings, and today I'm going to do the same thing and make a few additional comments in response to EPA's reproposal action on Wyoming's regional haze plan.

Under the regional haze rule, it's Wyoming's responsibility to develop a program that will protect and preserve visibility in Class 1 areas. Wyoming stands by its BART analyses, which does just that. We based our decisions on sound science and engineering and achieved a level of NOx reductions that manages visibility in Class 1 areas and allows coal-fired electric generation to continue.

It's a fine line to walk in a state that provides 40 percent of the nation's coal and is highly regarded for its pristine scenic vistas. It's an

accomplishment no other state in the nation has championed as well as the state of Wyoming. What makes the disapproval of Wyoming's regional haze SIP so disheartening is that EPA is unable to walk that same fine line, and they are unwilling to walk it along with the State of Wyoming.

For years, Wyoming has pursued developing a collaborative and professional relationship with the EPA, but the regional haze SIP process, the EPA has not reciprocated the same cooperative effort. This lack of effort on the part of the EPA does not represent the intent of what performance partnership agreements are put in place to accomplish.

Instead the EPA let sue-and-settle tactics pervert what is typically a cooperative process. Nongovernmental groups should not be allowed to coerce an agency into setting policy as a result of litigation. Wyoming considers this an attack on states' rights, which does nothing to further the partnership between EPA and Wyoming, especially when Wyoming can't participate in those discussions.

Wyoming communities and power companies don't escape this tug of war between maintaining clear skies and the provision of electricity to the nation, as well. The power industry is compelled to comply with EPA's

regional haze plan and is caught between the responsibility to supply reliable power, while having to justify to the state public utilities commission that rates will need to be increased to cover the costs of implementing EPA's plan.

When you start to drill down a little deeper, the basic question facing electric generating companies is how long can you physically justify keeping old power plants open while facing exorbitant costs, versus shutting these facilities down completely?

The same difficult decision does not end with the regional haze program. In fact, there are a number of regulations that will continue to drive up the cost of using coal, compounding the difficult industry decision to comply or shut down. Regulations such as the mercury air toxic standards, or the Utility MATS, the recent court decision on the Cross-State Air Pollution Rule affecting eastern states, and the reproposal of the Greenhouse Gas New Source Performance Standards are all tools in EPA's kit being used to forcibly push the State in one direction instead of allowing Wyoming to provide a balance between industry and environmental protections.

In closing, I'd like to remind the EPA that Wyoming cares a great deal about protecting our national parks and our wilderness areas. Wyoming has spent years

formulating a scientifically based source-specific plan that in the end resulted in the reduction of tens of thousands of tons of nitrogen oxides, despite the fact that wildfires are the largest single cause of visibility impairment in Wyoming.

The people employed by the State of Wyoming also live in the state of Wyoming, and we've always been committed to find the balance between maintaining clear air and a healthy economy. It's our recommendation that the EPA recognize Wyoming's dedication and expertise and return the authority to manage regional haze back to the State.

Thanks for the opportunity.

MS. FALLON: Thank you, Mr. Dietrich.

Our next commenter is Maria Katherman.

MS. KATHERMAN: My name is Maria Katherman, M-A-R-I-A, K-A-T-H-E-R-M-A-N.

My husband and I have a ranch to the northwest of Douglas. Douglas is a town with the highest rate of childhood asthma in Wyoming. We are directly downwind of the Dave Johnston Power Plant. I have two sons. Both of them became asthmatic. And I often think about this as I drive home over the interstate. I see the brown cloud from Dave Johnston lines out just in a line down to the ranch. It goes for 50 miles or more.

So I thank the EPA for their effort to keep our -- to start addressing the problems of air pollution. I recognize that this ruling is thanks to what we are required to do for Class 1 airsheds. I do not live in a Class 1 airshed. But I hope my community can benefit from what you're doing.

A lot of people today say they've been speaking for the citizens of Wyoming, and I have yet to hear anyone speak for me. I was born and raised here. I'm now 60 years old. From Casper Mountain in the wintertime -- not when the forest fires are going -- we used to be able to see Cloud Peak reliably in the Big Horns. I have not seen it probably for ten or twelve years. I would gladly pay more. I would gladly pay triple my electric bill if it meant that my sons didn't have to deal with asthma. I'm paying more in asthma medicine than I will ever pay for my electric bill.

I believe that industry and the users of that electricity need to step up and take responsibility to pay for these externalities that are suffering from. If we use electricity, then we should pay for the cost of the electricity. And part of that cost is what its generation does do to our air. And if we can clean that up, then we should pay for it.

And I think -- I am embarrassed that it takes a

federal mandate for industry to realize this and do it. That's a shame. Air quality obviously has to be a regional effort in the least. It's not a national problem. It's a global problem. I agree. Absolutely, I would love to know the source of the haze. And these folks that say Wyoming's skies, there's nothing wrong with them, I don't know if you ever look up. We don't see the stars like we used to. We look up, and what used to be blue is now grayish blue. If you don't see that, then you're not looking up.

I have some experience with the effectiveness of Wyoming's DEQ. It's chronically underfunded. What has happened in the coal mining areas with the coal bed methane was foreseen 30 years ago. These guys are short-termers. They're going to come. They're going to leave. They're going to leave you stranded. You have a 10,000 bond that won't even get a backhoe to clean it up. These problems were seen beforehand. They were not addressed by oil and gas. DEQ doesn't have the manpower or the funding to address them.

And I think this is another problem that is, likewise, not going to be addressed adequately by DEQ because of the fault of manpower. We don't have any air quality monitors going on in Converse County where I am, and we're begging for them. They don't have it. They

don't have it. So, if it takes federal oversight, then I just have to say again, I'm embarrassed for Wyoming that it takes federal oversight for us to step up to our responsibility to the region and to our citizens.

So, yes, some haze, I'll bet it does come from China. And I only hope that there are some Chinese citizens that are looking up, going, my air is unacceptable, and I'm going to go to a public meeting where everybody else is funded by industry, is running for office, is from the government, and I'm a citizen. And I know my comment probably isn't going to mean anything, but I'm going to stand up. Because I hope those Chinese people are doing that. And I want to be a person for Wyoming that does that.

MS. FALLON: Thank you, Ms. Katherman.

Our next commenter is Anne MacKinnon.

MS. MacKINNON: My name is Anne MacKinnon, M-A-C-K-I-N-N-O-N. I'm a consultant here in Casper on natural resource policy, and I'm here to support the EPA's actions imposing -- or, proposal to impose federal standards for -- to make up for the deficiencies in the state rule.

I think you all know or could remember if you look back that the coal industry in Wyoming, particularly in the Powder River Basin, is born of regulation. If it

weren't for the Clean Air Act, there would not be the kind of coal development that we've had in this state. It's low-sulfur coal. It's also low energy. And it was not particularly desirable coal until the '70s, until the Clean Air Act. It was born of public concern over air quality, which led to regulation, which led to the market saying we've got to have this low-sulfur coal, this Wyoming coal which has made such a difference to our state.

So I think it's ironic when we hear people associated with the coal industry in Wyoming complaining about regulation. But there usually have been complaints and objections just like those that you have heard today every time that a new pollution reduction is proposed for coal-burning power plants. And those reductions that now we see in retrospect, the utilities are proudly claiming, well, see, we've already done these. I would be surprised if we didn't find in the records that those reductions were scheduled but objected to at the time they originally proposed that info.

When the discussion turns to wildfires, I think it's pretty clear that to control wildfires would mean directly addressing climate change issues. Because it should be clear to everyone who lives here that wildfires have drastically increased through climate change. But

at the same time, climate change regulation is heavily objected to by the same people who are objecting to this regional haze control. Now what's going on is that the market's driven by public concern over climate change and by the scientific evidence of climate change. It is the market ahead of regulation that is affecting the coal industry, that is cutting down coal sales and coal production. So the market's driven by public concern. I'm talking about insurance companies and utilities themselves who increasingly feel like they've been hamstringed, because they can look out there and see that at some point, we are going to have to address climate change. As I say, if you think about the insurance companies, they're extremely fair. And they can see that we're going to have to shift off coal, and that's what's happening to coal mining, and that's what's happening to the coal that supports so much of Wyoming's revenue.

So we know that coal sales and coal production are going down. A good deal of Wyoming revenues come from coal, but a lot come from other energy sources and will come from wind. Wyoming has a wonderful diverse portfolio when it comes to energy sources. It's a shifting scene in energy. It's also a shifting scene in the economy. And you all know that tourism is an important part of the economy.

And while we used to be able to say -- it was an adage -- well, you can't beat the scenery, but as you know, you can beat it every day. You can talk about visitation being down, but it's still an important feature. That's why people fight so hard for snowmobile use in Yellowstone, because there's a lot of winter tourism use in a place like that. So it's not true that you can't beat the scenery. You can't beat it if you can see it. You need to be able to see that scenery. Too often in the winter when there are no fires, you can't see -- I can't see the Big Horns from the top of Casper Mountain.

So coal will still be burned as the energy generation picture in this country shifts. And regulation is not the biggest factor in those shifts that are occurring. We have to accept that. The regulation is not what is going to stop the coal industry. It is the public concern over climate change, air quality, air pollution that created the coal industry and is ultimately changing it and changing the energy picture that we have to live with in Wyoming, as we are energy producers.

But as that shifts and coal will still be burned and is still being burned, the economy is also shifting. And we have to support the tourism economy.

What we're talking about here, visibility, is absolutely crucial to it. So I think that we need to see the best controls for nitrogen oxides. The timing should be in the way that EPA has proposed. I think the EPA's not overreaching, but it's quite important backup for us all and has legal authority for what they are doing, what they're proposing to do, and that the utility customers -- certainly I'm one of them -- would be willing to pay for it.

Thank you very much.

MS. FALLON: Thank you, Ms. MacKinnon.

Next, Mark Christensen.

MR. CHRISTENSEN: M-A-R-K C-H-R-I-S-T-E-N-S-E-N.

My name is Mark Christensen. I'm a first-term county commissioner from Campbell County. Campbell County is located in the northeast part of the state, and Gillette is our county seat and home to a little over 30,000 people. The total population of Campbell County is approximately 45,000.

My family has operated our local Gillette ranch since it was originally homesteaded in 1907, and we have grown to have ranch properties in three different states and many different Wyoming counties. Though I do not live on the ranch, I was raised there and have an

appreciation for Wyoming's land, its resources and its beauty.

Wyoming's ranchers and its business people are the state's biggest advocates for environmental compliance. They have a long-term interest in the state and its future success. Many of these people are members of the Wyoming legislature or local government. Wyoming is a state of outdoorsmen, hunters, fishers, and others who enjoy our wide-open spaces and clear skies. Additionally, Wyoming is also a state where many revenues are generated from tourism. To put it plainly, our clear skies are important to our bottom line.

I have reviewed the testimony of Wyoming legislators, the governor, state departments and others and believe those individuals and groups have made a compelling scientific case as to the misstatements, inaccuracies and errors in the EPA proposal. As these are not my areas of expertise, I will instead talk to the impacts the proposed rule will have on Campbell County, its citizens and the citizens of Wyoming.

Though put forward as an issue of regional haze, this plan is nothing more than one more assault on Wyoming's coal industry by this administration. As stated before the Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, by our

commission chairman, Dan Coolidge, in DC a couple weeks ago, Wyoming is the largest producer of coal in the United States. Campbell County is located in the heart of the Powder River Basin, PRB, and this past year produced approximately 28 percent of the coal used for U.S. electricity generation. To put this in perspective, this is equivalent to approximately 95 nuclear power plants, 175 Hoover Dams or 200,000 wind turbines. The total coal produced in Wyoming in 2012 is 401 million tons, with a total value of approximately $4 billion.

Since 1992, Wyoming has received over $2.6 billion in coal bid lease revenue, with nearly two billion of these monies being put towards school capital construction. An additional two billion has gone to the federal government. Severance taxes and mineral royalties have put even more money into state coffers to provide state government services and to pass on to other local governments. Wyoming has established a permanent mineral trust fund to provide for the state's long-term needs.

Your proposed haze plans will impact energy costs at levels that remain to be seen. One thing that is undisputed is that states that utilize coal-generated electricity have lower electricity costs passed on to their consumers. The ten states that use the highest

percentage of coal for electricity enjoy rates that are approximately 50 percent less than the costs of states that rely on other fuels. Wyoming has the lowest price for electricity in the nation, averaging 6.2 cents per kilowatt-hour. In our modern global world, low-priced energy is key to ensuring continued manufacturing and production in the United States.

This folly to reduce haze will likely have no visible difference on Wyoming skies. However, it will have a major impact on costs of producing electricity from coal. The costs to plants will be substantial, with one of your identified plants being located in Campbell County and many other plants which will be impacted being located there, as well. These costs will either be passed on to consumers or force the closure of plants. Both alternatives are bad for the United States and Campbell County.

Citizens deserve an opportunity to fully evaluate the costs associated with your proposal and to make an informed decision. A delicate balance between environmental protection and economic prosperity must be struck. The accelerated pace of this process and the usurping of authority from the State of Wyoming endanger this balance and showcase the abuse of power this administration is willing to make to force major policy

change upon a nation and a state that doesn't want it.

My concerns go beyond this Wyoming regional haze proposal to include similar efforts in other states and the nation, all of which threaten coal.

In Campbell County in this current fiscal year, 63.72 percent of our assessed valuation came from ad valorem taxes on coal. Sales taxes on mining equipment and supplies also contribute substantially to county and municipal governments. Just discussions and proposals for increased restrictions on greenhouse gases produced from electrical generation have forced the closure of coal plants and the conversion of some coal plants to natural gas. Because of these changes and unusually low natural gas prices, production of coal in Campbell County was down 41 million tons over the last year.

Additionally, uncertainty has caused mining companies to hold back on major equipment purchases. These decreases in coal ad valorem taxes, decreases in natural gas ad valorem taxes and decreased sales tax have amounted to a $15 million decrease in our budget over this year alone.

Campbell County and the mines within our county are concerned with our clear skies. For many years, we have participated in the Congestion Mitigation Air Quality grant program through the Wyoming Department of

Transportation to place magnesium chloride on county roads to minimize dust generated from gravel roads because of increased traffic from energy development. Through the CMAQ program, Campbell County has initially treated 135.8 miles of county roads at a cost of over 2.5 million. After the initial application of magnesium chloride with a combination of state and local funds, the county has continued application to these roads at an annual cost of $583,000.

The people of Wyoming are cognizant of our air quality and the CMAQ grant program, and the county's continued focus on dust suppression of our roads show our focus.

In Campbell County approximately 5,400 people are employed directly by our local mines. Many more are employed in our coal-fired power plants, by companies who provide supplies to the mines, and indirectly as a result of these basic-level jobs. These mines, plants and companies provide good jobs at high salaries with good benefits. According to the 2010 census, the median household income for Campbell County was 78,797 in 2009, compared to the Wyoming median household income of 54,400. Our high median household income is driven by our mines and energy companies.

Additionally, the ad valorem taxes generated

from PRB coal in Campbell County, sales taxes on mine purchases and other minerals and demographics have created a good community with good schools, attractive public facilities and benefits for its citizens.

Some notable achievements which have been made by Campbell County and our local government partners in just the last few years as a result of monies from the coal industry include the following: Construction of a new $55 million recreation center, with youth day rates of only three dollars; construction of multi-event facilities, including a new $44 million events center, a performing arts theater, and others which allowed Campbell County to begin Arts in Education and other programs now considered innovative and mainstream back in the 1980s; establishment of long-term maintenance and depreciation accounts for county facilities and vehicles; partnerships with local nonprofit organizations to sustain operations funding through contracts for services totalling one million dollars a year; investments in Gillette College, including the new $42 million Technology Education Center, to provide vocational training for employees needed in our local mines and supporting industries; a local mill of 11.051, though the state allows for 12, keeping property taxes low; and public schools and salaries among the most competitive in

the nation.

These are just a few of the many great things that have come to Campbell County as a result of coal production from the PRB. The EPA haze plan under review threatens to put this all at risk as it threatens production of electricity from coal.

In a time of high national unemployment, decreasing consumer buying power, stagnant growth in personal earnings, and many other problems, Campbell County and the State of Wyoming should serve as an example to the rest of the nation on the benefits of responsible development of mineral resources. The administration and EPA should be looking into ways to expand the use of PRB coal, which is a low sulfur and ash subbituminous coal resource. Instead, the EPA and the administration are determined to drag us down by imposing rules that will have no visible change on Wyoming's skies.

The State of Wyoming and its counties live within their means and operate our governments responsibly. We take care of ourselves by responsibly developing and utilizing our resources. The same cannot be said of many other states, counties or cities. The development of our natural resources is important to our long-term viability. Through the state's long-term haze

plan and programs like the CMAQ grant program, we have proven ourselves capable of managing our own skies.

I would ask that EPA reconsider its proposal to impose additional haze regulations upon Wyoming.

MS. FALLON: Thank you, Mr. Christensen.

Next we have Tim Summers.

MR. SUMMERS: Good afternoon. My name is Tim Summers, S-U-M-M-E-R-S. I am the AARP Wyoming state director based in Cheyenne. We appreciate this public hearing and the opportunity to share our views today.

AARP is a nonprofit, nonpartisan organization that helps people age 50 and over improve the quality of their lives. Currently AARP has about 92,000 members in Wyoming. Over the past twelve years, AARP has opposed several large and overly frequent utility rate increases in Wyoming. We have pushed for a system that ensures fair and reasonable utility rates, and we work to ensure that consumers have access to affordable and reliable utility services. It's all part of an effort to make sure folks can keep more of their hard-earned money, especially those Wyoming households with limited fixed incomes.

According to a 2011 AARP poll of Wyoming's 50-plus population, not just AARP members, but the entire 50-plus population, more than half of them said that

monthly costs for household utilities are a real problem for them. Therefore, from the various estimates that we have heard about, we are concerned about potentially significant increases to residential consumers resulting from the proposal regional haze rules.

Although a five to ten percent increase in rates may seem manageable to some or inconsequential to some, I'd like to remind you that when you are living on a fixed income, when you are retired, living on a fixed income, a five to ten percent increase in rates is not inconsequential. Think about all the other costs that are going up, gasoline, food, prescription drugs, health care co-pays and other health care costs, and then add in utilities.

AARP urges the EPA to consider the cost implications of the proposed rules on Wyoming's residential and small business consumers, especially those who are living on fixed incomes.

It has been suggested that the State should see how the newly implemented Wyoming DEQ regulations impact the state first, and then, if needed, implement a more gradual or incremental EPA approach. AARP urges the EPA to consider this and any other implementation strategies that would ease the burden on ratepayers without compromising the ability to reach long-term visibility

goals.

Thank you for your time and consideration.

MS. FALLON: Thank you, Mr. Summers.

That's all the people that we have signed up. Is there anybody else that would like to present testimony?

(No response.)

MS. FALLON: Anybody that already presented that would like some more time?

(No response.)

MS. FALLON: We'll go off the record, then, and see if anybody else has any.

(Hearing proceedings recessed 4:06 p.m. to 4:29 p.m.)

MR. HUSS: Jon, J-O-N, Huss, H-U-S-S. And I am just a citizen of Casper. I don't work for the energy industry. I don't work for government. I'm just very interested in air quality. And I strongly support the EPA's proposal and recommendations. And I can say, having traveled to a lot of countries where air quality is of secondary importance, I appreciate actually being able to breathe. And so the stronger the controls that are put in place, the better, and just hope that you follow through with all the recommendations in the proposal, because I think somebody needs to take a stand.

Whether the money interests are for or against it, there's more at stake here.

So, anyway, I appreciate your coming all the way to Casper to do this and take comments. And hopefully there will be a diversity of opinions that you can consider. But at least speaking on behalf of myself and my family, we strongly support your proposal.

Thank you.

MS. FALLON: Thank you for coming. We'll go off the record.

(Hearing proceedings recessed 4:31 p.m. to 4:59 p.m.)

MS. FALLON: We're going to go on the record to close this session. Thank you all for coming. The hearing is now officially over. We encourage anyone who intends to submit any written comments before the end of the comment period to do so sooner, rather than later. This will allow EPA more time to consider and appropriately respond to comments.

(Hearing proceedings concluded 5:00 p.m., July 26, 2013.)

C E R T I F I C A T E

I, RANDY A. HATLESTAD, a Registered Merit Reporter, do hereby certify that I reported by machine shorthand the proceedings contained herein constituting a full, true and correct transcript.

Dated this 12th day of August, 2013.

Randy A Hatlestad

RANDY A. HATLESTAD
Registered Merit Reporter